HINTS AND HELPS

—TO—

LAWYERS, CLAIM AGENTS, CLAIMANTS, APPLICANTS FOR POSITION IN THE CIVIL SERVICE, AND ALL OTHERS HAVING BUSINESS OF ANY KIND WITH THE GOVERNMENT AT WASHINGTON CITY.

COMPILED FROM OFFICIAL DATA

BY CHARLES PELHAM, ESQ.,

OF THE WASHINGTON BAR.

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LAWYERS, CLAIM AGENTS, CLAIMANTS, APPLICANTS FOR POSITION IN THE CIVIL SERVICE, AND ALL OTHERS HAVING BUSINESS OF ANY KIND WITH THE GOVERNMENT AT WASHINGTON CITY.

CONTAINING FULL, ACCURATE AND SPECIFIC INFORMATION, INSTRUCTIONS AND SUGGESTIONS IN REGARD TO THE PROSECUTION OF CLAIMS AND APPLICATIONS FOR PENSIONS, PATENTS AND PUBLIC LANDS, INCLUDING THE RULES OF PRACTICE IN THE SUPREME COURT OF THE UNITED STATES, IN THE COURT OF CLAIMS, IN THE PENSION, PATENT, AND LAND OFFICES, AND OF THE INTERSTATE COMMERCE COMMISSION; TOGETHER WITH THE FULL TEXT OF THE "ACT TO DETERMINE THE JURISDICTION OF THE CIRCUIT COURTS OF THE UNITED STATES AND TO REGULATE THE REMOVAL OF CAUSES FROM STATE COURTS, AND FOR OTHER PURPOSES," APPROVED MARCH 3, 1875; OF THE ACT AMENDATORY OF THE FOREGOING ACT, APPROVED MARCH 3, 1887; OF THE ACT KNOWN AS THE "BOWMAN ACT," APPROVED MARCH 3, 1863; OF THE ACT TO PROVIDE FOR THE BRINGING OF SUITS AGAINST THE GOVERNMENT OF THE UNITED STATES, APPROVED MARCH 3, 1887; AND OF THE INTERSTATE COMMERCE ACT, APPROVED FEBRUARY 4, 1887; CONTAINING ALSO THE CIVIL SERVICE LAWS, RULES, DETAILS OF METHODS OF EXAMINATION, RATING OF CANDIDATES, ETC., TOGETHER WITH MUCH OTHER INTERESTING AND VALUABLE MATTER RELATING TO THE ADMINISTRATION OF THE GENERAL GOVERNMENT.

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NOTE.

☞*It is impossible in a work of this character to give explicit and exact instruction in regard to any and every individual case that may arise.*

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Washington, D. C.

TO THE READER.

For more than twenty years last past, the author and compiler of this book has been actively engaged in the practice of law, and in the prosecution of claims against the Government.

This experience, together with that derived from the discharge of public duties, has rendered him familiar with the methods and routine of the Departments, and the volume here presented is the result of this personal and practical experience. It is confidently believed that it will prove useful as well to the general public as to the profession.

The compilation was originally undertaken with the view to the author's own convenience, but as he progressed the idea occurred to him that the book would be valuable to all persons who had, or might have, business transactions with the Government through any of the Departments, and the work was accordingly enlarged to answer this purpose.

The book contains, first, a brief sketch of the Treasury Department, with the legal rights of attorneys, and the limitations which are imposed upon them. Then follows an exhaustive account of the Civil Service, the law, and the rules and regulations of the Commissioners, including the manner of examination, and also *the secret methods of the Commissioners.* To persons contemplating an examination for the classified Civil Service this information is invaluable.

Then follows Pensions. First, there is a complete compilation of the pension laws, and then follows in detail all the rules and regulations of the bureau, and the forms of practice and procedure before it. The treatment is comprehensive, and also extends to the minutest detail. The subject is exhausted, and nothing is left unsaid which would be of interest to attorneys, claimants, or claim agents.

Precisely in the same way and with the same fullness and completeness and accuracy and extent of detail is the treatment of the general laws, the special rules and regulations, the orders and instructions, with the procedure and practice, the forms and

the fees in the Land Office, the Patent Office, the Post Office and the subordinate bureaus.

Of special interest to lawyers will be the Rules of Practice in the Supreme Court of the United States; the history of the Court of Claims, its enlarged jurisdiction under the "Bowman Act," and its rules of procedure and practice; also the act enlarging the jurisdiction of the United States courts, and the act transferring causes to these courts from the State courts.

Of special interest to all persons will be the Interstate Commerce Act and the rules and regulations of the Interstate Commerce Commission and the forms of procedure before it.

In addition to this, the following matters which are considered will possess interest for many persons, viz:

The Registration of Prints and Labels; Trade-marks; Copyrights; French Spoliation Claims; Property Abandoned and Captured during the war, and how to recover it; Old Southern Claims; Unclaimed Interest on Negotiated Bonds; Refunding of illegally Collected Taxes; Passports; Extradition; Secret Service; The Dead Letter Office, the Soldiers' Home, and the Government Printing Office.

The business of the Department of Agriculture, making analysis of soils and fertilizers, and supplying to the public choice seeds, plants, roots, etc., ought to have special attractions for the farmers of the country, and the operations of the Fish Commission should interest all persons owning streams in which any species of fish might be raised with profit.

This book is a complete and reliable compendium of all matters connected with the administration of the Government in which the people are personally and pecuniarily interested. Strange as it may appear, nothing like it has ever been published before in one volume. Many compilations of single subjects herein treated have been printed, it is true, but for the first time, and in this book, has the whole contents of this valuable information been given to the public.

CHARLES PELHAM,
52 Corcoran Building, Washington, D. C.

July 19, 1887.

INDEX.

SUPREME COURT OF THE UNITED STATES.

TRADE MARKS.

FOR SECRET RULES OF THE CIVIL SERVICE COMMISSIONERS, SEE APPENDIX "A."

A SKETCH OF THE TREASURY DEPARTMENT.

The Constitution of the United States was ratified by the nine States required for its adoption, and became organic law in 1788. The first Congress assembled in New York city, March 4th, 1789. The act establishing the Treasury Department was approved by the President the 2nd day of September, 1789. The inception of the National Treasury dates as far back as June 22nd, 1775; over a year before the Declaration of Independence. At that time the Continental Congress passed an ordinance providing for the issue of a sum not exceeding two millions of Spanish milled dollars, in paper money, for the defence of America, for the payment of which the faith of the Colonies was pledged. By an ordinance passed July 29th, 1775, Congress appointed Michael Hillegas and George Clymer as joint Treasurers of the United Colonies. On February 17th, 1776, a standing committee of five was appointed to superintend the Colonial Treasury, examine the accounts of the treasurers and from time to time report to Congress. The committee superintended the emission of bills of credit and were authorized to employ one or more clerks for stating and keeping the public accounts under their direction and to provide books and a suitable office for that purpose.

The subject of counterfeiting also received attention from Congress and penalties were prescribed for counterfeiting the Continental bills of credit. On February the 11th, 1779, Congress created the office of Secretary of the Treasury. Every person not familiar with the laws and usages relating to the allowance and prosecution of claims against the United States for the payment of money, and who alleges that he has such claim, for the payment of which provision should be, or has been made by law, will require the advice and aid of a competent agent or attorney, either to secure the requisite legislation, or to obtain the allowance and payment of the claim. The first duty of the claimant in such cases is to secure the services of such agent or attorney. There are some limitations and modifications imposed by acts of Congress on the powers which may be exercised by attorneys or agents in their relations to the Government and on the forms of appointing them. The Revised Statutes contain these provisions on this subject:

SEC. 3477. All transfers and assignments made of any claim upon the United States, or of any part or share thereof, or interest therein, whether absolute or conditional, and whatever may be the consideration therefor, and all powers of attorney, orders, or other authorities for receiving payment of any such claim,

or of any part or share thereof, shall be absolutely null and void, unless they are freely made and executed in the presence of at least two attesting witnesses, after the allowance of such claim, the ascertainment of the amount due, and the issuing of a warrant for the payment thereof. Such transfers, assignments, and powers of attorney must recite the warrant for payment, and must be acknowledged by the person making them, before an officer having authority to take acknowledgements of deeds, and shall be certified by the officer; and it must appear by the certificate that the officer, at the time of the acknowledgement, read and fully explained the transfer, assignment, or warrant of attorney to the person acknowledging the same.

SEC. 1576. Every assignment of wages due to persons enlisted in the naval service, and all powers of attorney or other authority to draw, receipt for, or transfer the same shall be void, unless attested by the commanding officer and paymaster. The assignment of wages must specify the precise time when they commence.

SEC. 1291. No assignment of pay by a non-commissioned officer or private previous to his discharge shall be valid.

To make a valid contract with Indians the following rules are prescribed by the Department:

First. Such agreement shall be in writing, and a duplicate of it delivered to each party.

Second. It shall be executed before a judge of a court of record, and bear the approval of the Secretary of the Interior and the Commissioner of Indian Affairs indorsed upon it.

Third. It shall contain the names of all parties in interest, their residence and occupation; and, if made with a tribe, by their tribal authorities. The scope of authority and the reason for exercising that authority shall be given specifically.

Fourth. It shall state the time when and the place where made, the particular purpose for which made, the special thing or things to be done under it, and, if for the collection of money, the basis of the claim, the source from which it is to be collected, the disposition to be made of it when collected, the amount or rate per centum of the fee in all cases; and, if any contingent matter or condition constitutes a part of the contract or agreement, it shall be specifically set forth.

Fifth. It shall have a fixed limited time to run, which shall be distinctly stated.

Sixth. The judge before whom such contract or agreement is executed shall certify, officially, the time when and the place where such contract or agreement was executed; and that it was in his presence, and who are the interested parties thereto, as stated to him at the time; the parties present making the same; the source and extent of authority claimed at the time by the contracting parties to make the contract or agreement, and whether made in person or by agent or attorney of either party or parties.

All contracts or agreements made in violation of this section shall be null and void, and all money or other thing of value paid to any person by any Indian or tribe, or any one else, for or on his or their behalf, on account of such services, in excess of the amount approved by the Commissioner and Secretary for such services, may be recovered by suit in the name of the United States in any court in the United States, regardless of the amount in controversy; and one-half thereof shall be paid to the person suing for the same, and the other half shall be paid into the Treasury for the use of the Indian or tribe by or for whom it was so paid.

The act of May 17th, 1878 (20 Stat., 62, sec. 2), authorizes a contractor for carrying the mails, to sub-let or transfer his contract with the "consent in writing of the Postmaster General" Some of these statutes have been construed, and their effect in limiting the authority of attorneys has been declared in numerous cases. The regulations of the Treasury Department provide that—

In every case to be finally adjudicated in this Department, the attorney shall present a letter of attorney from the claimant to prosecute the case, and shall be regarded as the attorney in such case with the right to receive any draft therein.

Construction has been given to this in numerous cases. In addition to the provisions made by section 3477 as to the form and execution of a power of attorney to receive payment of a claim, the regulations require it to state "the number and kind of warrant" for payment, "the number, date and amount of draft," that it "be dated subsequently to the date of the draft," and they specify the officers before whom it is to be acknowledged.

At common law and in judicial courts an attorney has a lien in many cases, not only on papers in his possession, but also on the fruits of his labor. This lien may exist by express contract, or by common law. Its character, extent, and the remedies arising therefrom or thereon have been much discussed and considered in valuable elementary works in many decided cases. It is now well settled, that an attorney who prosecutes a claim in the Treasury Department and receives a Treasury draft issued to make payment thereof has no lien thereon.

And it seems, perhaps, that, in some cases, and under ordinary forms of employment, if the attorney will not surrender the draft to his client, in order that he may indorse it for payment, the latter may sue the United States in the Court of Claims, recover judgment thereon, and thus secure payment without first paying the compensation due to the attorney who originally prosecuted the claim in the Treasury Department. And, under ordinary conditions and the usual forms of employment, the death of the claimant revokes the power of attorney, even if given in express terms, to receive a Treasury draft issued in payment of a claim against the United States.

There are three questions to be considered by every attorney who may be retained to prosecute in the Treasury Department a claim against the United States:

First. By what form of contract and letter of attorney may his employment be secured, his powers adequately given and his right to compensation as fully protected as the law permits?

Second. What are the initial steps to be taken and the forms of procedure to be pursued to commence and carry on the prosecution; and,

Third. Where and what is the law to be studied to secure the allowance and payment of the claim?

Every attorney should understand that his professional duties are to be performed in relation to claims against the United States with scrupulous fidelity, alike to his client, and to executive officers, with unswerving integrity, and that for any failure in either respect, he is amenable, not only to his client, but also to the officers whose authority he invokes It is important that

every attorney should receive the proper evidence of his employment, of his right to compensation, and of his authority.

Form of Agreement and Power of Attorney for Claims Generally.

* * * * * * * *

This agreement, between Charles Pelham, [the attorney,] of Washington city, D. C., of the first part, and , [the claimant,] of the second part—

Witnesseth, that said Pelham, as agent and attorney, agrees to take the exclusive charge and control of a certain claim, which said alleges he has, or is entitled to have, against the United States of America, [describing it] and to prosecute the same before any of the courts of the United States, or before any of the Departments of the Government or officers or agents thereof, or before the Congress of the United States, or any committees thereof, and before any officer, agent, commission, or convention which is or may be authorized to take cognizance of said claim, or through any diplomatic negotiations, or before any one or more or all of these or otherwise, as may be deemed proper.

And in consideration therefor, said agrees to pay said Pelham a sum equal to [any agreed rate] per cent. of the amount which may be allowed on said claim; the payment of which, and of all expenses incurred and moneys advanced in the prosecution of said claim is hereby made a lien upon the said claim, and upon any draft or order or authority to receive money, or evidence of indebtedness which may be issued thereon, and upon all money which may be secured or paid thereon, or on such claim.

[Where costs are to be expended insert the following:]

[This agreement is not to be affected by any services performed by the claimant, or by any other agents or attorneys employed by him. And said agrees to advance and pay to said attorney, from time to time, all such sums of money as may be necessary to pay all costs and expenses of prosecuting said claim or incident thereto, and of carrying into effect the purposes hereof, to execute, from time to time, to the said Pelham, such powers of attorney and other instruments of writing, and do all other acts and furnish all evidence which may be convenient or necessary for the successful prosecution and collection of the said claim.]

Said [the claimant] hereby appoints, with full power of substitution and revocation, said Charles Pelham, of Washington, D. C., his true and lawful attorney to present and prosecute said claim as aforesaid until final completion; and said agrees to furnish, from time to time, all evidence necessary, or that may be demanded, giving and granting to said attorney full power and authority to do and perform

all and every act and thing whatsover requisite or necessary to be done in and about the premises as fully to all intents and purposes, as said might or could do, if personally present at the doing thereof, with full power, in the discretion of said Pelham, from time to time, of substitution and revocation, hereby ratifying and confirming all that said attorney or his substitute may or shall lawfully do or cause to be done by virtue hereof, and the said attorney, or if he should die his legal representative, is authorized to receive any warrant, draft, check, order, or authority for receiving money that may be issued in settlement of said claim; also, in consideration of the obligations assumed on the part of said attorney, this power of attorney is irrevocable, and any person who may have rights under said shall recognize this contract and power of attorney, and all rights of said Pelham, his substitutes and legal representatives allowed, hereby annulling any and all former powers of attorney or authorizations whatsoever in the premises.

In witness whereof, the parties hereunto set our hands and seals this 1st day of June, A. D. 1887.

_____ _____. [SEAL.]
_____ _____. [SEAL.]
_____ _____. [SEAL.]

Executed in presence of—
{ Two witnesses who can write sign here. }
_____ _____.
_____ _____.

[Acknowledgment.]

The steps to be taken and the forms of procedure to be pursued in commencing and carrying on the prosecution of a claim:

1. When an attorney is employed to prosecute a claim against the United States the first inquiry which naturally presents itself is, to what officer is application to be made? This will depend on the character of the claim, and the evidence of a right to payment thereof. If it be one in which an act of Congress names the claimant, and authorizes payment to him, it may generally be presented directly to the proper Auditor who will examine and adjust it, make report thereof to the proper Comptroller, who will certify a balance due the claimant, on which, after registry in the office of the Register of the Treasury, a Treasury warrant will issue to the Treasurer of the United States as his authority for paying to the claimant or order the sum certified as due to him. The jurisdiction of the several Auditors and Comptrollers is prescribed by statute, and has been stated in detail in a form readily accessible. If the claim be one arising out of transactions connected with some branch of the public service, it is generally to be presented to the proper officer in that branch of the service for his approval, or for refer-

ence to the proper Auditor. In such case, the claim, after proper authorization of payment by special act of Congress, or under a general law, may be paid directly by a disbursing officer, who, if necessary, may first ask the advice of the proper Comptroller if payment be authorized. Salaries of many officers are paid by disbursing officers. Others are, and most of them may, if necessary, be paid by an account stated by the proper Auditor and on a balance certified by the proper Comptroller. It is not practicable here to point out more fully, or in detail, the officers to whom application should be made in order to initiate or to conduct the proceedings to secure the payment of claims. The sources of information on this subject are abundant and readily accessible.

2. The forms of procedure are simple and easily understood. The sources of information on this subject are also ample and readily accessible. An application to a disbursing officer for payment must be accompanied by a voucher showing in proper form, and on proper evidence, the sum due, and must contain the evidence of payment. An application to an Auditor for a statement of an account and report to a Comptroller should generally be in writing, stating the claim of which payment is asked, and accompanied by evidence of its validity.

THE CIVIL SERVICE.

Positions in the civil service of the Government are eagerly sought after on account of the absolute certainty of pay and the respectable and generally easy nature of the duties.

Prior to 1883, appointments to all places were made either upon the personal knowledge of the appointing power, or upon the recommendation of influential persons, especially Senators and Representatives in Congress. Such is still the case with all places outside of the "Classified Civil Service," which now includes about 14,000 clerkships, etc., in all parts of the country.

In 1883, Congress passed the Pendleton Act, or "Civil Service Reform Laws," which will be found in the body of this work, together with the rules and regulations made in pursuance thereof, and having the force of law.

The object of this Act was to open the avenues to Government employment to deserving persons in all parts of the country, without regard to race, color, political belief, or influence.

While this law has been criticised, there is no doubt that it has had the desired effect, in a marked degree, and that many have secured good places upon their own merits who would have had no opportunity to do so by favoritism. A Democratic chief of bureau recently appointed an applicant upon his excellent examination papers, and his feelings may be imagined when the unknown turned out to be a colored man of strong Republican proclivities.

Some are deterred from entering these examinations by the idea that the questions are too difficult or technical, and that only graduates fresh from college stand any chance of success. This is emphatically denied by those familiar with the facts; and statistics of the appointments made under the law show a majority of scholars from the public schools, and also that a record of experience in business gives a great advantage to the applicant. The narrow limit of age is the chief bar to a large number, but this does not apply to honorably discharged soldiers and sailors, who have also a preference over "applicants attaining the same grade in marking."

The first step for any candidate to take is to obtain the proper blank application from the Commissioners. When this is properly filled out and filed, he will receive notice of the next examination at which he (or she) should appear.

Examinations in Washington city are generally held at the office of the Commissioners, in the court house or old city hall, on

D street, between Third and Fifth streets northwest. Examinations in other parts of the country, it is announced, will be held in future, so far as possible, at regular times and places, or at special times and places, to be duly advertised The changes in the classified service by death, resignation, and discharge cause a constant demand for new clerks.

The Commissioners sometimes refuse to issue blanks or receive applications from a particular State when the quota of that State is full.

Other information will be found in the following. especially in the *official* "*Instructions to Applicants*:"

"THE PENDLETON ACT."

(Chapter 27, Statutes at Large, vol. 22, p. 403)

AN ACT to regulate and improve the civil service of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled, That the President is authorized to appoint, by and with the advice and consent of the Senate, three persons, not more than two of whom shall be adherents of the same party, as Civil Service Commissioners, and said three Commissioners shall constitute the United States Civil Service Commission. Said Commissioners shall hold no other official place under the United States.

The President may remove any Commissioner; and any vacancy in the position of Commissioner shall be so filled by the President, by and with the advice and consent of the Senate, as to conform to said conditions for the first selection of Commissioners.

The Commissioners shall each receive a salary of three thousand five hundred dollars a year. And each of said Commissioners shall be paid his necessary traveling expenses incurred in the discharge of his duty as a Commissioner.

SEC. 2 That it shall be the duty of said Commissioners:

First. To aid the President, as he may request, in preparing suitable rules for carrying this act into effect, and when said rules shall have been promulgated it shall be the duty of all officers of the United States in the Departments and offices to which such rules may relate, to aid, in all proper ways, in carrying said rules, and any modifications thereof, into effect.

Second. And, among other things, said rules shall provide and declare, as nearly as the conditions of good administration will warrant, as follows:

First. For open, competitive examinations for testing the fitness of applicants for the public service now classified or to be classified hereunder. Such examinations shall be practical in their character, and so far as may be shall relate to those matters which will fairly test the relative capacity and fitness of the persons examined to discharge the duties of the service into which they seek to be appointed.

Second. That all the offices, places, and employments so arranged or to be arranged in classes shall be filled by selections according to grade from among those graded highest as the results of such competitive examinations.

Third. Appointments to the public service aforesaid in the Departments at Washington shall be apportioned among the several States and Territories and the District of Columbia upon the basis of population as ascertained at the last preceding census. Every application for an examination shall contain, among other things, a statement, under oath, setting forth his or her actual bona fide residence at the time of making the application, as well as how long he or she has been a resident of such place.

Fourth That there shall be a period of probation before any absolute appointment or employment aforesaid.

Fifth. That no person in the public service is for that reason under any obligations to contribute to any political fund, or to render any political service, and that he will not be removed or otherwise prejudiced for refusing to do so.

Sixth. That no person in said service has any right to use his official authority or influence to coerce the political action of any person or body.

Seventh. There shall be non-competitive examinations in all proper cases before the Commission, when competent persons do not compete, after notice has been given of the existence of the vacancy, under such rules as may be prescribed by the Commissioners as to the manner of giving notice.

Eighth. That notice shall be given in writing by the appointing power to said Commission of the persons selected for appointment or employment from among those who have been examined, of the place of residence of such persons, of the rejection of any such persons after probation, of transfers, resignations, and removals, and of the date thereof, and a record of the same shall be kept by said Commission.

And any necessary exceptions from said eight fundamental provisions of the rules shall be set forth in connection with such rules, and the reasons therefor shall be stated in the annual reports of the Commission.

Third. Said Commission shall, subject to the rules that may be made by the President, make regulations for, and have control of, such examinations, and, through its members or the examiners, it shall supervise and preserve the records of the same; and said Commission shall keep minutes of its own proceedings.

Fourth. Said Commission may make investigations concerning the facts, and may report upon all matters touching the enforcement and effects of said rules and regulations, and concerning the action of any examiner or board of examiners hereinafter provided for, and its own subordinates, and those in the public service, in respect to the execution of this act.

Fifth. Said Commission shall make an annual report to the President for transmission to Congress showing its own action, the rules and regulations and the exceptions thereto in force, the practical effects thereof, and any suggestions it may approve for the more effectual accomplishment of the purposes of this act.

SEC. 3. That said Commission is authorized to employ a chief examiner, a part of whose duty it shall be, under its direction, to act with the examining boards, so far as practicable, whether at Washington or elsewhere, and to secure accuracy, uniformity, and justice in all their proceedings, which shall be at all times open to him. The chief examiner shall be entitled to receive a salary at the rate of three thousand dollars a year, and he shall be paid his necessary traveling expenses incurred in the discharge of his duty. The Commission shall have a secretary, to be appointed by the President, who shall receive a salary of one thousand six hundred dollars per annum. It may, when necessary, employ a stenographer, and a messenger, who shall be paid, when employed, the former at the rate of one thousand six hundred dollars a year, and the latter at the rate of six hundred dollars a year. The Commission shall, at Washington, and in one or more places in each State and Territory where examinations are to take place, designate and select a suitable number of persons, not less than three, in the official service of the United States, residing in said State or Territory, after consulting the head of the department or office in which such persons serve, to be members of boards of examiners, and may at any time substitute any other person in said service living in such State or Territory in the place of any one so selected. Such boards of examiners shall be so located as to make it reasonably convenient and inexpensive for applicants to attend before them; and where there are persons to be examined in any State or Territory, examinations shall be held therein at least twice in each year. It shall be the duty of the collector, postmaster, and other officers of the United States, at any place outside of the District of Columbia where examinations are directed by the President or by said board to be held, to allow the reasonable use of the public buildings for holding such examinations, and in all proper ways to facilitate the same.

SEC. 4. That it shall be the duty of the Secretary of the Interior to cause suitable and convenient rooms and accommodations to be assigned or provided, and to be furnished, heated, and lighted, at the city of Washington, for carrying on the work of said Commission and said examinations, and to cause the

necessary stationery and other articles to be supplied, and the necessary printing to be done for said Commission.

SEC. 5. That any said commissioner, examiner, copyist, or messenger, or any person in the public service who shall wilfully and corruptly, by himself or in co-operation with one or more other persons, defeat, deceive, or obstruct any person in respect of his or her right of examination according to any such rules or regulations, or who shall wilfully, corruptly, and falsely mark, grade, estimate, or report upon the examination or proper standing of any person examined hereunder, or aid in so doing, or who shall wilfully and corruptly make any false representations concerning the same or concerning the person examined, or who shall wilfully and corruptly furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any person so examined, or to be examined, being appointed, employed or promoted, shall for each such offense be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than one hundred dollars, nor more than one thousand dollars, or by imprisonment not less than ten days, nor more than one year, or by both such fine and imprisonment.

SEC. 6. That within sixty days after the passage of this act it shall be the duty of the Secretary of the Treasury, in as near conformity as may be to the classification of certain clerks now existing under the one hundred and sixty-third section of the Revised Statutes, to arrange in classes the several clerks and persons employed by the collector, naval officer, surveyor, and appraisers, or either of them, or being in the public service, at their respective offices in each customs district where the whole number of said clerks and persons shall be all together as many as fifty. And thereafter, from time to time, on the direction of the President, said Secretary shall make the like classification or arrangement of clerks and persons so employed, in connection with any said office or offices, in any other customs district. And, upon like request, and for the purposes of this act, said Secretary shall arrange in one or more of said classes, or of existing classes, any other clerks, agents, or persons employed under his Department in any said district not now classified; and every such arrangement and classification upon being made shall be reported to the President.

Second. Within said sixty days it shall be the duty of the Postmaster-General, in general conformity to said one hundred and sixty third section, to separately arrange in classes the several clerks and persons employed, or in the public service at each post office, or under any postmaster of the United States, where the whole number of said clerks and persons shall together amount to as many as fifty. And thereafter, from time to time, on the direction of the President, it shall be the duty of the Postmaster-General to arrange in like classes the clerks and persons so employed in the postal service in connection with any other post office; and every such arrangement and classification upon being made shall be reported to the President.

Third. That from time to time the said Secretary, the Postmaster-General, and each of the heads of departments mentioned in the one hundred and fifty-eighth section of the Revised Statutes, and each head of an office, shall, on the direction of the President, and for facilitating the execution of this act, respectively revise any then existing classification or arrangement of those in their respective departments and offices, and shall, for the purposes of the examination herein provided for, include in one or more of such classes, so far as practicable, subordinate places, clerks, and officers in the public service pertaining to their respective departments not before classified for examination.

SEC. 7. That after the expiration of six months from the passage of this act no officer or clerk shall be appointed, and no person shall be employed to enter or be promoted in either of the said classes now existing, or that may be arranged hereunder pursuant to said rules, until he has passed an examination, or is shown to be specially exempted from such examination in conformity herewith. But nothing herein contained shall be construed to take from those honorably discharged from the military or naval service any preference conferred by the seventeen hundred and fifty-fourth section of the Revised Statutes, nor to take from the President any authority not inconsistent with this act conferred by the seventeen hundred and fifty-third section of said statutes; nor shall any officer not in the executive branch of the Government, or any person merely employed as a laborer or workman, be required to be classified here-

under, nor, unless by direction of the Senate shall any person who has been nominated for confirmation by the Senate be required to be classified or to pass an examination.

SEC. 8. That no person habitually using intoxicating beverages to excess shall be appointed to, or retained in, any office, appointment, or employment to which the provisions of this act are applicable.

SEC. 9. That whenever there are already two or more members of a family in the public service in the grades covered by this act, no other member of such family shall be eligible to appointment to any of said grades.

SEC. 10. That no recommendation of any person who shall apply for office or place under the provisions of this act which may be given by any Senator or member of the House of Representatives, except as to the character or residence of the applicant, shall be received or considered by any person concerned in making any examination or appointment under this act.

SEC 11. That no Senator, or Representative, or Territorial Delegate of the Congress, or Senator, Representative, or Delegate elect, or any officer or employee of either of said houses, and no executive, judicial military or naval officer of the United States, and no clerk or employee of any department, branch, or bureau of the executive, judicial, or military or naval service of the United States shall, directly or indirectly, solicit or receive, or be in any manner concerned in soliciting or receiving, any assessment, subscription, or contribution for any political purpose whatever, from any officer, clerk, or employee of the United States, or any department, branch, or bureau thereof, or from any person receiving any salary or compensation from moneys derived from the Treasury of the United States.

SEC. 12. That no person shall, in any room or building occupied in the discharge of official duties by any officer or employee of the United States mentioned in this act, or in any navy-yard, fort, or arsenal, solicit in any manner whatever, or receive any contribution of money or any other thing of value for any political purpose whatever.

SEC. 13. No officer or employee of the United States mentioned in this act shall discharge, or promote, or degrade, or in manner change the official rank or compensation of any other officer or employee, or promise or threaten so to do, for giving or withholding or neglecting to make any contribution of money or other valuable thing for any political purpose.

SEC. 14. That no officer, clerk, or other person in the service of the United States shall, directly, or indirectly, give or hand over to any other officer, clerk, or other person in the service of the United States, or to any Senator or member of the House of Representatives, or Territorial Delegate, any money or other valuable thing on account of or to be applied to the promotion of any political object whatever.

SEC 15. That any person who shall be guilty of violating any provision of the four foregoing sections shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine not exceeding five thousand dollars, or by imprisonment for a term not exceeding three years, or by such fine and imprisonment both, in the discretion of the court.

Approved, January sixteenth, 1883.

FROM THE REVISED STATUTES UNITED STATES.

"SECTION 1753. The President is authorized to prescribe such regulations for the admission of persons into the civil service of the United States as may best promote the efficiency thereof, and ascertain the fitness of each candidate in respect to age, health, character, knowledge, and ability for the branch of service into which he seeks to enter; and for this purpose he may employ suitable persons to conduct such inquiries, and may prescribe their duties, and establish regulations for the conduct of persons who may receive appointments in the civil service."

"SECTION 1754. Persons honorably discharged from the military or naval service by reason of disability resulting from wounds or sickness incurred in the line of duty, shall be preferred for appointments to civil offices, provided they are found to possess the business capacity necessary for the proper discharge of the duties of such offices."

THE AMENDED CIVIL SERVICE RULES.

PREAMBLE.

In the exercise of the power vested in the President by the Constitution, and by virtue of the 1753d section of the Revised Statutes, and of the Civil Service act approved January 16th, 1883, the following rules for the regulation and improvement of the executive civil service are hereby amended and promulgated:

RULE I. No person in said service shall use his official authority or influence either to coerce the political action of any person or body or to interfere with any election.

RULE II. No person in the public service shall for that reason be under any obligation to contribute to any political fund, or to render any political service, and he will not be removed or otherwise prejudiced for refusing to do so.

RULE III. It shall be the duty of collectors, postmasters, assistant treasurers, naval officers, surveyors, appraisers, and custodians of public buildings at places where examinations are to be held, to allow and arrange for the reasonable use of suitable rooms in the public buildings in their charge, and for heating, lighting, and furnishing the same, for the purposes of such examinations and all other executive officers shall in all legal and proper ways facilitate such examinations and the execution of these rules.

RULE IV.—1. All officials connected with any office where, or for which, any examination is to take place, will give the Civil Service Commission, and the chief examiner, such information as may be reasonably required to enable the Commission to select competent and trustworthy examiners, and the examinations by those selected as examiners, and the work incident thereto, will be regarded as a part of the public business to be performed at such office, and, with due regard to other parts of the public business said examiners shall be allowed time during office hours to perform the duties required of them.

2. It shall be the duty of every executive officer promptly to inform the Commission, in writing, of the removal or discharge from the public service of any examiner in his office, or of the inability or refusal of any such examiner to act in that capacity; and, on the request of the Commission, such officer shall thereupon name not less than two persons serving under him, whom he regards as most competent for a place on an Examining Board, stating generally their qualifications and from all those who may be named for any such place the Commission shall select a person to fill the same.

RULE V. There shall be three branches of the service, classified under the Civil Service act (not including laborers or workmen, or officers required to be confirmed by the Senate), as follows:

1. Those classified in the Departments at Washington shall be designated "The Classified Departmental Service."

2. Those classified under any collector, naval officer, surveyor, or appraiser in any customs district shall be designated "The Classified Customs Service."

3. Those classified under any postmaster at any post office, including that at Washington, shall be designated "The Classified Postal Service."

4. The classified Customs Service shall embrace the several customs districts where the officials are as many as fifty, now the following: New York city, N. Y.; Boston, Mass.; Philadelphia, Pa.; San Francisco, Cal.; Baltimore, Md.; New Orleans, La.; Chicago, Ill.; Burlington, Vt.; Portland, Me.; Detroit, Mich.; Port Huron, Mich.

5. The Classified Postal Service shall embrace the several post offices where the officials are as many as fifty, now the following: Albany, N. Y.; Baltimore, Md.; Boston, Mass.; Brooklyn, N. Y.; Buffalo, N. Y.; Chicago, Ill.; Cincinnati, Ohio; Cleveland, Ohio; Detroit, Mich.; Indianapolis, Ind.; Jersey City,

N. J.; Kansas City, Mo.; Louisville, Ky.; Milwaukee, Wis.; Minneapolis, Minn.; Newark, N. J.; New Haven, Conn.; New Orleans, La.; New York city, N. Y.; Philadelphia, Pa.; Pittsburgh, Pa.; Providence, R. I.; Rochester, N. Y.; Saint Louis, Mo.; Saint Paul, Minn.; San Francisco, Cal.; Washington, D. C.

6. Whenever within the meaning of the said act the clerks and persons employed by the collector, naval officer, surveyor, and appraisers, or either of them, in any customs district, shall be as many as fifty, any existing classification for the Customs service shall apply thereto, and when the number of clerks and persons employed at any post office shall be as many as fifty, any existing classification of those in the Postal Service shall apply thereto, and thereafter the Commission will provide for examinations for filling the vancancies at said offices, and the Rules will be applicable thereto.

RULE VI. There shall be open, competitive examinations for testing the fitness of applicants for admission to the service. Such examinations shall be practical in their character, and, so far as may be, shall relate to those matters which will fairly test the relative capacity and fitness of the persons examined to discharge the duties of the branch of the service which they seek to enter.

2. There shall, so far as they may be deemed useful, be competitive examinations of a suitable character to test the fitness of persons for promotion in the service.

RULE VII.—1. The general examinations under the first clause of Rule VI for admission to the service shall be limited to the following subjects: 1st. Orthography, penmanship, and copying 2d. Arithmetic—fundamental rules, fractions, and percentage. 3d. Interest, discount, and elements of book-keeping and of accounts. 4th. Elements of the English language, letter-writing, and the proper construction of sentences. 5th. Elements of the geography, history, and government of the United States.

2. Proficiency in any subject upon which an examination shall be held shall be credited in grading the standing of the persons examined in proportion to the value of a knowledge of such subject in the branch or part of the service which the applicant seeks to enter.

3. No one shall be entitled to be certified for appointment whose standing upon a just grading in the general examination shall be less than sixty-five per centum of complete proficiency in the first three subjects mentioned in this rule, and that measure of proficiency shall be deemed adequate.

4. For places in which a lower degree of education will suffice, the Commission may limit the examinations to less than the five subjects above mentioned; but no person shall be certified for appointment under this clause whose grading shall be less than an average of sixty-five per centum on such of the first three subjects or parts thereof as the examination may embrace.

5. The Commission may also order examinations upon other subjects of a technical or special character to test the capacity which may be needed in any part of the Classified Service which requires peculiar information or skill. Examinations hereunder may be competitive or non-competitive, and the maximum limitations of age contained in the twelfth Rule shall not apply to applicants for the same. The application for, and notice of, these special examinations, the records thereof, and the certification of those found competent, shall be such as the Commission may provide for. After consulting the head of any department or office, the Commission may, from time to time, designate, subject to the approval of the President, the positions therein for which applicants may be required to pass this special examination.

RULE VIII. No question in any examination, or proceeding by, or under, the Commission or examiners shall call for the expression or disclosure of any political or religious opinion or affiliation, and if such opinion or affiliation be known, no discrimination shall be made by reason thereof by the examiners, the Commission, or the appointing power. The Commission and its examiners shall discountenance all disclosure, before either of them, of such opinion by or concerning any applicant for examination or by or concerning any one whose name is on any register awaiting appointment.

RULE IX. All regular applications for the competitive examinations for admission to the Classified Service must be made on blanks in a form approved by the Commission. All requests for such blanks, and all applications for examination, must be addressed as follows: 1. If for the Classified Departmental

Service, to the U. S. Civil Service Commission, Washington, D. C. 2. If for the Classified Postal Service, to the postmaster under whom service is sought. 3. If for the Classified Customs Service, to the head of either customs office in which service is sought. All officers receiving such applications will indorse thereon the date of the reception thereof and transmit the same to the proper examining board of the district or office where service is sought, or, if in Washington, to the Civil Service Commission.

RULE X. Every examining board shall keep such records and such papers on file, and make such reports as the Commission shall require; and any such paper or record in the charge of any examining board or any officer shall at all times be open to examination as the Commission shall direct, and upon its request shall be forwarded to the Commission for inspection and revision.

RULE XI. Every application, in order to entitle the applicant to appear for examination or to be examined, must state, under oath, the facts on the following subjects: 1. Full name, residence, and post-office address. 2. Citizenship. 3. Age 4. Place of birth. 5. Health and physical capacity for the public service. 6. Right of preference by reason of military or naval service. 7. Previous employment in the public service. 8. Business or employment and residence for the previous five years. 9. Education. Such other information shall be furnished as the Commission may reasonably require touching the applicant's fitness for the public service. The applicant must also state the number of members of his family in the public service, and where employed, and must also assert that he is not disqualified under section 8 of the Civil Service act, which is as follows: "That no person habitually using intoxicating beverages to excess shall be appointed to or retained in any office, appointment, or employment to which the provisions of this act are applicable." No person dismissed from the public service for misconduct shall be admitted to examination within two years thereafter, and no person not absolutely appointed or employed after probation shall be admitted to an examination within one year thereafter.

2. No person under enlistment in the Army or Navy of the United States shall be examined under these rules, except for some place requiring special qualifications, and with the consent in writing of the head of the Department under which he is enlisted.

3. The Commission may by regulations, subject to change at any time by the President, declare the kind and measure of ill health, physical incapacity, misrepresentation and bad faith which may properly exclude any person from the right of examination, grading, or certification under these rules. It may also provide for medical certificates of physical capacity in the proper cases; and for the appropriate certification of persons so defective in sight, speech, hearing or otherwise, as to be, apparently, disqualified for some of the duties of the part of the service which they seek to enter.

RULE XII.—1. Every regular application must be supported by proper certificates of good moral character, health, and physical and mental capacity for doing the public work, the certificates to be in such form and number as the regulations of the Commission shall provide; but no certificate will be received which is inconsistent with the tenth section of the Civil Service act.

2. No one shall be examined for admission to the Classified Postal Service if under sixteen or over thirty-five years of age, excepting messengers, stampers, and other junior assistants, who must not be under fourteen years of age; or to the Classified Customs Service, or to the Classified Departmental Service, if under eighteen or over forty-five years of age; but no one shall be examined for appointment to any place in the Classified Customs Service, except that of clerk or messenger, who is under twenty-one years of age; but these limitations of age shall not apply to persons honorably discharged from the military or naval service of the country, who are otherwise duly qualified.

RULE XIII.—1. The date of the reception of all regular applications for the Classified Departmental Service shall be entered of record by the Commission, and of all other regular applications by the proper examining boards of the district or office for which they are made; and applicants, when in excess of the number that can be examined at a single examination, shall, subject to the needs of apportionment, be notified to appear, in their order on the respective records. But any applicants in the several States and Territories for appointment in the Classified Departmental Service may be notified to appear for

examination at any place at which an examination is to be held, whether in any State or Territory, or in Washington, which shall be deemed most convenient for them.

2. The Commission is authorized, in aid of the apportionment among the States and Territories, to hold examinations at places convenient for applicants from different States and Territories, or for those examination districts which it may designate and which the President shall approve.

3. The Commission may, by regulation, provide for dropping from any record the applicants whose names have remained thereon for six months or more without having been reached in due course for notification to be examined.

RULE XIV. Those examined shall be graded, and shall have their grade marked upon a register after those previously thereon, in the order of their excellence as shown by their examination papers, except that those from the same State or Territory may be entered upon the register together, in the order of relative excellence, to facilitate apportionment. Separate registers may be kept of those seeking to enter any part of the service in which special qualifications are required.

RULE XV. The Commission may give a certificate to any person examined, stating the grade which such person attained, and the proficiency in the several subjects, shown by the markings.

RULE XVI.—1. Whenever any officer having the power of appointment or employment shall so request, there shall be certified to him, by the Commission or the proper examining board, four names for the vacancy specified, to be taken from those graded highest on the proper register of those in his branch of the service and remaining eligible, regard being had to any right of preference and to the apportionment of appointments to States and Territories; and from the said four a select on shall be made for the vacancy. But if a person is on both a general and a special register he need not be certified from the former, except at the discretion of the Commission, until he has remained two months upon the latter.

2. These certifications for the service at Washington shall be made in such order as to apportion, as nearly as may be practicable, the original appointments thereto among the States and Territories and the District of Columbia, upon the basis of population as ascertained at the last preceding census.

3. In case the request for any such certification or any law or regulation shall call for those of either sex, persons of that sex shall be certified, otherwise sex shall be disregarded in such certification.

4. Subject to the other provisions of this rule persons eligible on any register shall be entitled to three certifications only, to the same officer; but, with his request, in writing, there may be a fourth certification of such persons to him, when reached in order. No one shall remain eligible more than one year upon any register except as may be provided by regulation; but these restrictions shall not extend to examinations under clause 5 of Rule 7. No person while remaining eligible on any register shall be admitted to a new examination, and no person having failed upon examination shall, within six months thereafter, be admitted to another examination, without the consent of the Commission.

5. Any person appointed to or employed in any place in the classified service, who shall be dismissed or separated therefrom without fault or delinquency on his part may be reappointed or re-employed in the same Department or office at a grade for which no higher examination is required than for the position he last held, within one year next following such dismissal or separation, without further examination, on such certification as the Commission may provide.

RULE XVII.—1. Every original appointment or employment in said classified service shall be for the probationary period of six months, at the end of which time, if the conduct and capacity of the person appointed have been found satisfactory to the officer having the duty of selection, the probationer shall be absolutely appointed or employed, but otherwise be deemed out of the service.

2. Every officer under whom any probationer shall serve during any part of the probation provided for by these rules shall carefully observe the quality and value of the service rendered by such probationer, and shall report to the proper appointing officer, in writing, the facts observed by him, showing the character and qualifications of such probationer, and of the service performed by him; and such reports shall be preserved on file.

3. Every false statement knowingly made by any person in his application

for examination, and every connivance by him at any false statement made in any certificate which may accompany his application, and every deception or fraud practiced by him or by any person in his behalf and with his knowledge to influence his examination, certification, or appointment, shall be regarded as good cause for refusing to certify such person or for the removal or discharge of such person during his probation or thereafter.

RULE XVIII. Every head of a department or office shall notify the Commission of the name of every person appointed to, or employed in, the classified service under him (giving the date of the appointment and the designation of the office or place) from those examined under the Commission; and shall also inform the Commission of the date of any rejection or final appointment or employment of any probationer, and of the promotion, removal, discharge, resignation, transfer, or death of any such person after probation. Every head of any office in the postal or customs service shall give such information on these subjects to the Board of Examiners for his office as the regulations of the Commission may provide for.

RULE XIX. There are excepted from examination the following: 1. The confidential clerk or secretary of any head of a department or office. 2. Cashiers of collectors. 3. Cashiers of postmasters. 4. Superintendents of money-order divisions in postoffices. 5 The direct custodians of money for whose fidelity another officer is under official bond, and disbursing officers having the custody of money who give bonds; but these exceptions shall not extend to any official below the grade of assistant cashier or teller. 6. Persons employed exclusively in the secret service of the Government, or as translators, or interpreters, or stenographers. 7. Persons whose employment is exclusively professional; but medical examiners are not included among such persons. 8. Chief clerks, deputy collectors, deputy naval officers, deputy surveyors of customs, and superintendents or chiefs of divisions or bureaus. But no persons so excepted shall be either transferred, appointed, or promoted, unless to some excepted place, without an examination under the Commission, which examination shall not take place within six months after entering the service. Promotions may be made without examination in offices where examinations for promotion are not now held, until rules on the subject shall be promulgated.

RULE XX. If the failure of competent persons to attend and be examined, or the prevalence of contagious disease or other sufficient cause, shall make it impracticable to supply in due season for any appointment the names of persons who have passed a competitive examination, the appointment may be made of a person who has passed a non-competitive examination, which examination the Commission may provide for; but its next report shall give the reason for such resort to non-competitive examination.

RULE XXI. No person, unless excepted under Rule 19, shall be admitted into the classified civil service from any place not within said service without an examination and certificat on under the rules; with this exception, that any person who shall have been an officer for one year or more last preceding, in any department or office, in a grade above the classified service thereof, may be transferred or appointed to any place in the same without examination.

2. No person who has passed only a limited examination under clause 4 of Rule 7, for the lower classes or grades in the departmental or customs service, shall be appointed or be promoted within two years after appointment to any position giving a salary of $1,000 or upwards, without first passing an examination under clause 1 of said rule, and such examination shall not be allowed within the first year after appointment.

3. But a person who has passed the examination under said clause 1, and has accepted a position giving a salary of $900 or less, shall have the same right of promotion as if originally appointed to a position giving a salary of $1,000 or more.

4. The Commission may at any time certify for a $900 or any lower place in the classified service, any person upon the register who has passed the examination under clause 1 of Rule 7, if such person does not object before such certification is made.

RULE XXII. Any person who has been in the classified departmental service for six months or more immediately previous may, when the needs of the service require it, be transferred or appointed to any other place therein upon producing a certificate from the Civil Service Commission that such person has passed at the required grade one or more examinations, which are together equal to that necessary for original entrance to the place which would be secured by the transfer or appointment; and any person who has for three years last preceding served as a clerk in the office of the President of the United States may be transferred or appointed to any place in the classified service without examination.

RULE XXIII. The Civil Service Commission will make appropriate regulations for carrying these rules into effect.

RULE XXIV. Every violation, by any officer in the executive civil service, of these

rules, or of the 11th, 12th, 13th, or 14th section of the Civil Service act, relating to political assessments, shall be good cause for removal.

SPECIAL RULE NO. 1. Any person who was employed on or before the 16th day of January, 1883, in any Executive Department at Washington, in a position not included in the classified service in said Department, but who was at that date exclusively engaged in the duties of a clerk or copyist, and who has since been continuously so engaged, may, in the discretion of the head of the Department, be treated as within the classified service in the Department, in a grade corresponding to such duties; provided such person has either already passed an examination under the Civil Service Rules, or shall pass an appropriate competitive or non-competitive examination thereunder, at a grade of sixty-five per cent. or upwards.

Approved June 12, 1884.

SPECIAL RULE NO. 2. The names of all persons who shall have successfully passed their examination under the Civil Service Rules previous to July 16, 1884, may remain on the register of persons eligible for appointment two years from the date of their respective registrations, unless sooner appointed.

Approved July 18, 1884. (Revoked October 1, 1885.)

SPECIAL RULE NO. 3. Appointments to the 150 places in the Pension Office provided to be filled by the act of July 7th, 1884, except so far as they may be filled by promotions, must be separately apportioned by the appointing power in as near conformity to the second section of the act of January 16th, 1883, as the need of filling them promptly and the residence and qualifications of the applicants will permit.

Approved July 22, 1884.

SPECIAL RULE NO. 4. Appointments to the 150 places in the Pension Office provided to be filled by the act of March 3, 1885, except so far as they may be filled by promomotions or transfers, must be separately apportioned by the appointing power in as near conformity to the second section of the act of January 16th, 1883, as the need of filling them promptly and the residence and qualifications of the applicants will permit.

Approved July 18, 1884.

SPECIAL RULE NO. 5. Special Rule No. 2, approved July 18th, 1884, is hereby revoked All applicants on any register for the Postal or Customs Service, who, on the first day of November next, shall have been thereon one year or more, shall, in conformity with Rule 16, be no longer eligible for appointment from such register.

Approved October 1, 1885.

REGULATIONS.

The United States Civil Service Commission, acting under the authority of the Civil Service Act of January 16, 1883, and the rules promulgated by the President, makes the following regulations:

CHIEF EXAMINER.

Regulation 1. The Chief Examiner shall, as far as directed by the Commission, attend the examinations held by the several boards of examiners. He shall take care to secure accuracy, uniformity, and justice in all their proceedings, which shall at all times be open to him; but leaving the duty of the examiners, in marking and grading those examined, unimpaired. The Commission will, in its discretion, designate one of its own members, or request the detail of a suitable person, to supervise examinations whenever deemed needful.

Regulation 2. He shall prepare and submit to the approval of the Commission proper forms and questions. He shall take care that the rules and regulations relating to his duties are complied with, and bring every case of injustice or irregularity observed by him to the attention of the Commission. He shall take such part as the Commission shall assign him in the work at Washington. It shall be his duty to confer, from time to time, with the heads of the postal and customs offices which he officially visits concerning the regularity, sufficiency, and convenience of the examinations for the service under them.

SECRETARY.

Regulation 3. The Secretary shall keep the minutes of the proceedings of the Commission, and have charge of and be responsible for the safe-keeping of the books, records, papers, and other property in its office. He shall make the proper certification of those eligible for the Departmental service. He shall generally conduct the correspondence of the Commission and perform such other appropriate duties as it may assign to him.

BOARDS OF EXAMINERS.

Regulation 4. The general Board of Examiners for the Departmental service shall consist of three persons from the Treasury Department, two from the War Department, one from the Navy Department, two from the Post Office Department, two from the Interior Department, one from the Department of Justice, one from the Department of Agriculture, and such members as the Commission may designate. But any members, not less than three, may be designated by the Commission to constitute the Examining Board for any examination, general, special, or supplementary.

The secretary of the Board of Examiners for the Departmental service shall keep a record of its proceedings and have charge of its papers.

Regulation 5. In case of examinations to be held at other places than those having a classified service, the Commission will designate an examining board for that purpose.

Regulation 6. For each post-office, the Board of Examiners shall consist of not less than three nor more than five persons.

Regulation 7. The general Board of Examiners for each customs district shall consist of two or more persons selected from the office of the collector, and one or more from each of the other customs offices which are subject to the rules; but if there be no office subject thereto except that of the collector, the examiners shall be selected from his office: *Provided*, That no such board shall have more than nine members.

Regulation 8. Three examiners may serve as a board for conducting any examination; and the examiners for any customs district or post office will, subject to the direction of the Commission, determine which three shall hold any examination, taking care that, if an examination is wholly or mainly for any office, one or more of the examiners from that office shall be on the acting board. In case of a failure or disagreement as to which three shall be the board for any examination, the Commission or Chief Examiner shall designate the local examiners who shall serve. In case of the disability or absence of one of the three examiners constituting any board, the other two may conduct the examination.

DUTIES OF EXAMINING BOARDS.

Regulation 9. Each Examining Board shall have a chairman and secretary to be selected by the Commission. It shall be the duty of the secretary to keep a complete record of the proceedings of the board and all examinations held. He shall also keep the record of applicants and examinations, and the register of persons eligible for appointment, and all other records required. He shall have charge of all books and papers belonging to the board and shall be responsible to the Commission for their safe keeping. On application of the proper appointing officer, he shall certify to such officer in conformity to the rules and the directions of the Commission, the names of the four persons of highest grade remaining on the register, except in such cases as the Commission may otherwise direct. He shall also answer all proper requests for application blanks, and send due notice to applicants to be examined, and shall give all other notices required.

Regulation 10. Neither the Commissioners nor any Examiner or other persons serving under them shall attempt to control or influence, in any manner, appointments, removals, or promotions; nor can they receive, or transmit to appointing officers any letters of request, certificates, or recommendations other than those provided in the application paper; and all such unauthorized letters, certificates, and recommendations must be deposited with the Commission.

Regulation 11. Care must be taken by the examiners to preserve order, and not to allow such visitors as they may admit, nor any conversation or other cause, to obstruct or distract those being examined.

Regulation 12. Examiners must not disclose, unless by consent, the names of those examined, or the grade they obtain. The relative standing of persons on the registers of eligibles must not be disclosed to any person without the consent of the Commission, as such disclosure may work a defeat of the purpose of the law in excluding influence, and in securing the appointment of the most worthy.

Regulation 13. The Board of Examiners for each office or district must promptly notify the Commission of the need of holding an examination in and for such office or district, and may suggest a time for the same, but subject to any change the Commission may find it necessary to make for the more convenient and effective discharge of its duty to see that the examinations are accurate, uniform, and just. The notice must state under which clause or clauses of Rule 7 the applicants are to be examined, and must, when practicable, be given at least twenty days before the time appointed therein for the examination.

DUTIES OF HEADS OF OFFICES.

Regulation 14. The head of each post office and of each customs office, to which the rules are applicable, should inform the local Board of Examiners of probable vacancies, that examinations for filling them may be held in due season, and (as contemplated by Rule 18) should promptly inform the Board of Examiners for his office of the name of every person refusing an appointment or employment, or who shall be appointed to or employed in the classified service under him (giving the date of the appointment and the designation of the office or place), and of the name of every person rejected or finally appointed or employed after probation, including the date thereof, and of the promotion, removal, discharge, resignation, transfer, or death of every such person.

Regulation 15. Whenever any officer in the Customs or Postal Service to whom a certification has been made shall object in writing to any person in such certification because of ill-health or physical incapacity, specifying the

same, the person so objected to shall furnish such officer a certificate of the nearest medical officer of the Revenue Marine or Marine Hospital Service, or other physician approved by the secretary of the Board of Examiners, declaring him physically competent for the position sought; in the case of failure to furnish such certificate another name shall be substituted in the certification. Such certification shall count as one of the three due such person. All such cases shall be reported promptly to the Commission.

Regulation 16 The secretary of the Board of Examiners must sign and deliver to the applicant objected to the appropriate blank form, addressed to the proper medical officer or selected physician, for such applicant to take to that officer for the purpose of procuring the required certificate, and such applicant shall be allowed three days after such delivery to him to furnish the completed certificate.

EXAMINATIONS.

Regulation 17. Notices in writing should be mailed to applicants for examination in the postal and customs service at least eight days before the examination, and they shall clearly specify the place and the time, including the hour, of holding the same.

Regulation 18 All competitive examinations for admission to the civil service shall be in writing with ink, except that tests of physical qualities or expertness may be added as the Commission shall approve.

Regulation 19. The examination sheet will commonly be given out in the order of their numbers; each, after the first, being given only when the applicant shall return to the examiners the last sheet taken by him In case of the accidental spoiling of a sheet a duplicate may be given in its place.

Regulation 20 Not more than ten questions shall be given in any subject, except in special examinations. Care shall be taken that the time allotted for the examination shall be reasonably sufficient for answering the questions

In general, no competitive examination should occupy more than five hours, except in the case of special examinations.

Regulation 21. The examination papers of each applicant shall be marked only with a number, and his name with his number shall be placed in a sealed envelope, which shall not be opened until after his papers are marked.

POSTAL EXAMINATIONS.

Regulation 22. The examinations for clerks in the Postal Service shall embrace suitable questions in the *first*, *second*, *fourth*, and *fifth* subjects mentioned in clause 1, Rule 7.

The examinations for *carriers* shall embrace suitable questions in the *first* and *second* subjects, and in the *geography* of the *fifth*.

Examinations for *porters*, *pilers*, *stamp boys*, or *junior clerks*, and *messengers*, or other *employees* whose work is chiefly manual, may be limited to the *first* and *second* subjects, including only the four elementary rules of arithmetic.

CUSTOMS EXAMINATIONS.

Regulation 23. The examinations for clerks, including storekeepers, in the Customs Service shall embrace the five subjects mentioned in clause 1, Rule 7.

Examinations for inspectors shall embrace suitable questions in the *first*, *second*, *fourth*, and geography of the *fifth* subjects.

Examinations for night inspectors and messengers may be limited to the *first* and *second* subjects.

Examinations for weighers and gaugers shall embrace the *first* and *second* subjects, and such additional practical and theoretical questions and tests as the Commission may direct.

Examinations for examiners may embrace the *first*, *second*, and *fourth* subjects, and such supplementary technical subjects as may be needed in each case.

FRAUDS AND DISQUALIFICATIONS.

Regulation 24. Every examiner will exercise all due diligence to secure fairness, and to prevent all collusion or fraud in the examinations.

In case the Board of Examiners shall find that any applicant has made material misrepresentations of facts for the purpose of securing an examination or preference, or has been guilty of bad faith or fraud, either during an examination or in order to cause advantage or prejudice to any applicant, and also in case *prima facie* evidence shall be presented to the Board of Examiners, that any person on a record is, by reasons of criminal, infamous, or profligate conduct, not a fit person to be examined or marked, or, if on a register, to be certified, it will be the duty of the Board to report upon the matter fully and promptly to the Commission, and the marking, grading, or certification of such person may be suspended pending the action of the Commission upon the subject.

Regulation 25. Upon such report to the Commission, or such evidence otherwise appearing before it, the Commission will make the proper investigation and give appropriate direction to the Board of Examiners.

Regulation 26. In case a person upon any register shall, by reason of ill-health or physical incapacity become manifestly disqualified for the service for which he or she is registered, the Commission may direct that such person be not certified; and the Commission must be promptly informed by the proper Examining Boards of each case of such disqualification.

Regulation 27. The Commission will promptly hear any explanation or objection which the applicant affected by such suspension or refusal of an examination, marking, or certification may wish to present, and will facilitate any appropriate appeal he or she may make.

CERTIFICATION OF PERSONS DEFECTIVE IN SIGHT, SPEECH, ETC.

Regulation 28. A person so defective in sight, speech, hearing, or otherwise as to be apparently disqualified for some of the duties of the part of the service which he or she seeks to enter, may, after their names have been reached on the register, be placed on certification from time to time in addition to the proper number of names thereon in the usual course; the nature of the defects to be plainly noted on the certification.

MARKING AND GRADING.

Regulation 29. The examination papers shall, so far as practicable, be reviewed separately by each examiner who takes part in the marking, and in any case of disagreement the average of the markings to be made on the papers by all, shall be the final marking on each question, subject to the regulation as to revision.

Regulation 30. To determine the standing of the applicant in any subject, credit each answer in proportion to its completeness and accuracy according to the directions prescribed for each subject; the perfect answer being credited 100. Divide the sum of the credits by the number of questions upon the subject; the quotient will be the applicant's standing in that subject.

Regulation 31. To determine whether any applicant has reached an average standing of 65 per centum in the first two or the first three subjects, add the figures marking the applicant's standing in each; divide their sum by the number of the subjects, and the quotient will be the average standing therein.

Regulation 32 No applicant is entitled to go upon the register of those eligible for appointment whose average standing upon the first three subjects, or such parts thereof as are covered by the examination, is below 65 per centum; therefore, when the marking has been carried so far as to show such average standing to be below 65 per centum, it need not be carried further. If the examination includes no part of the fourth or fifth subject, such average standing will be the general average to be entered on the register.

The following example illustrates these directions:

First subject.	Credit to each question.	Second subject.	Credit to each question.	Third subject.	Credit to each question.
Question 1	80	Question 1	40	Question 1	70
Question 2	45	Question 2	90	Question 2	45
Question 3	71	Question 3	74	Question 3	90
Question 4	50	Question 4	56	Question 4	85
Question 5	65			Question 5	100
	311		260		390
Divide standings by number questions	5		4		5
	62.2		65		78

Fourth subject.	Credit to each question.	Fifth subject.	Credit to each question
Question 1	60	Question 1	60
Question 2	50	Question 2	90
Question 3	35	Question 3	80
Question 4	90		
Question 5	100		
	335		230
Divide standings by number questions	5		3
	67		76.66

The grade at which the applicant in this case will go upon the register is, therefore—

$62.2+65+78+67+76.66=348.86$. $\frac{348.86}{5}=69.77$, General Average.

Regulation 33. To whatever number of subjects the examination may extend, the general average will be ascertained by dividing the sum of the standings in each of the subjects by the number of subjects.

Regulation 34. Every example, though it be a case of dictation or copying, is regarded as a question under these regulations, and, although only a portion of the topics included in a subject under Rule 7 is embraced in an examination, it will, for the purpose of the marking, be treated as a subject.

COMPLAINTS AND APPEALS.

Regulation 35. Complaints which show injustice or unfairness on the part of any Examining Board, or any one acting under the Commission, or any error in marking, will be considered by the Commission, and if necessary it will revise the marking and grading on the papers, or order a new examination, or otherwise do justice in the premises.

In case any action of the Commission is desired, the complaint or appeal must be made within ten days of the notice of standing, and must specify particularly the matter complained of, together with the details of objection.

NON-COMPETITIVE EXAMINATIONS UNDER RULE 20.

Regulation 36. In case the necessity shall exist at any office or Department for holding a non-competitive examination under Rule 20, the following conditions shall be observed:

The Commission shall be immediately notified of such necessity and the grounds thereof, showing that it is impracticable to supply in due season for any

appointment the names of persons who have passed a competitive examination, by reason of the failure of competent persons to attend and be examined, or the prevalence of contagious disease or other sufficient cause.

Regulation 37. If the Commission shall not disapprove the holding of a non-competitive examination, the Secretary of the Commission at Washington, or of the examining board for any post-office or customs district, shall notify for such examinations any persons whose names may be on the record as applicants for places analogous to those to be filled, and whom the exigency of time may allow to be notified, not less in number than the vacancies and places to be provided for.

Regulation 38. If the number of applicants on the record be insufficient to furnish such supply, then the examining board, or in its absence the secretary, may notify other suitable persons, nominated by said board or secretary, upon consultation with the head of the office, who, taken together with said regular applicants notified, shall, if practicable, be not less in number than four to each place to be filled. The persons selected for appointment or employment shall be required to make oath to the proper application paper before entering upon their official duties.

Regulation 39. The non-competitive examination shall conform as nearly as practicable, in subjects, questions and marking, to the competitive examinations of the same grade; but no person shall be appointed under such non-competitive examination whose average standing upon the first three subjects, clause 1, Rule 7, or such parts thereof as may be used, is less than 65 per centum. *Provided*, There are those who pass at or above that grade from whom the places can be filled.

Regulation 40 The names of all persons passing the examination shall be certified to the proper officer, and the existing vacancies shall be filled therefrom; but no person by reason of such non competitive examination shall be appointed at any other time than during such exigency or to any other vacancy or place.

Regulation 41. A record shall be kept by the local examining board, and by the Secretary of the Commission at Washington, of the persons thus notified, examined, and appointed, or employed, and copies of notices and the examination papers shall be preserved; and said board shall, after each such examination and appointment, make full report to the Civil Service Commission of all the facts.

In case a majority of the Commission may not be present when an examination hereunder may need to be held at Washington, the same may be conducted under the charge of the chief examiner and any two members of the Board of Examiners.

SPECIAL EXAMINATIONS.

Regulation 42. Special boards of examiners for special examinations under clause 5, Rule 7, for the departmental service, shall be constituted as follows: a board of not exceeding five members for the Patent Office, a board of not exceeding seven members for the Pension Office, and boards of three members each for the State Department, the Signal Office the Geological Survey, and for book-keepers. Each special board shall mark all the papers of applicants examined for its part of the service, and shall be subject to the regulations prescribed by the Commission for the general examining boards as far as they are applicable.

Regulation 43. Applications for any special examination must be made in the form prescribed by the Commission, and must be accompanied by certificates as required in the case of ordinary applications. The minimum limitations of age shall be the same as those prescribed by Rule 12 for the several branches of the service, but no maximum limitations shall be required except such as the Commission may from time to time prescribe. Special boards of examiners will be designated by the Commission when needed.

Regulation 44. Whenever a special examination is to be held, notice in writing, specifying the time and place of the examination, shall be sent to a suitable number of the applicants, in the order of their application for the same, in time to allow their attendance.

Regulation 45. Each special examination shall include the subjects both obligatory and optional, approved by the Commission therefor, and no applicant shall be entered upon any special register of eligibles whose general average

upon the obligatory subjects shall be less than 65 per centum. Each optional subject shall be marked by itself, and entered separately upon the register.

Regulation 46. A special record of applicants and a special register of eligibles shall be kept for each office or part of the service requiring special examinations; and when the Commission or the proper examining board shall be notified by the appointing officer of a vacancy in such office, certification shall be made to him of the names of the four persons graded highest on the Special Register of Eligibles for the same, or of a different number when good reasons, approved by the Commission, may require; and a person may be certified more than twice to the same department or office from a special register, when the Commission shall so direct. In case the notice of vacancy shall contain a request for persons having a knowledge of one or more of the optional subjects, the certification may be made of those graded highest in the subject or subjects required.

Regulation 47. In case any person whose name stands on both a general and a special register shall be appointed from the former, the Commission may, in its discretion, retain him on, and certify him for appointment from the latter.

Regulation 48. In case that competent special applicants do not apply, or do not appear for a competitive examination after suitable notice, a non competitive examination may be held when the public need requires, in as near conformity as may be to the regulations provided for other non-competitive examinations for admission to the service.

SUPPLEMENTARY EXAMINATIONS.

Regulation 49. Supplementary examinations in subjects not enumerated in clause 1, Rule 7, of which a knowledge is required in the public service, will be held in addition to the general and limited examinations for the departmental service, and when such knowledge is claimed, in any application paper for either the general or limited examination, the applicant may be admitted to the supplementary examination without filing another application paper.

Regulation 50. Each applicant who has passed the examination in any supplementary subject shall be placed upon the proper supplementary register, provided such applicant has obtained the required grade in the general or limited examination, and may also be placed upon the general register according to standing in the general subjects respectively, if otherwise eligible.

Regulation 51. Whenever any request for a certification shall require persons acquainted with either of these subjects, four persons standing highest on the supplementary register in the subjects named, or a different number, as may be ordered, shall be certified.

Regulation 52. Boards of examiners for supplementary subjects shall be constituted as follows: A board of seven or more persons for the modern European languages; a board of three or more persons for each of the following subjects: Law, Medical Science, Stenography and Type writing, Telegraphy, Proof-reading, and Drafting and Copying of Drawings; and similar boards shall be appointed when required for positions of Assistant Librarians, and for other places requiring special knowledge or skill.

TRANSFERS.

Regulation 53. No person shall be certified for a transfer under Rule 22, except on request of the head of the Department to which the transfer is to be made, specifying the vacancy to be filled by such transfer.

The person to be transferred must furnish to the Commission the proof of his having been in the Classified Departmental Service six months or more, immediately previous; and, if he has not already passed the required examination, must pass at the general average of 65 or over, a non-competitive examination equivalent to that required for admission to the place, or such parts of said examination as he has not previously taken.

DROPPING OF APPLICANTS FROM RECORDS.

Regulation 54. Whenever the number of applicants for examination upon the Record Books, in the office of the Commission, for any State, Territory, or for the District of Columbia, or upon the Record Books of applicants for examina-

tion for any office in the Postal or Customs Service, shall in the opinion of the Commission, be in excess of the number likely to be examined for the same during the next six months, the Commission will, as justice and the public interest may require, exercise the authority conferred by Rule 13, by dropping therefrom all those who have been on any such Records for a period of six months or more, and will cause the applicants affected thereby to be properly notified that they have been thus dropped.

CERTIFIATION OF THOSE SPECIALLY EXAMINED.

Regulation 55. In the case of certification of applicants specially examined under clause 5 of Rule 7 to any Department, no person shall be more than twice certified from any Special Register for the same office, except by request of the head of a Department, or the special order of the Commission to be entered on its minutes.

OFFICIAL INSTRUCTIONS TO APPLICANTS WHO WISH TO ENTER THE UNITED STATES CIVIL SERVICE.

That part of the executive civil service for which examinations are held is designated the Classified Civil Service. It is in three branches, the Departmental, the Customs, and the Postal Service. (See Rule 5.)

The examinations in each of these three branches of the service are so different that no examination for one of them makes a person eligible for appointment in either of the others. No person who has been examined can, while eligible for appointment, have another examination either for the same office or for any other office or branch of the service without the consent of the Commission. (Rule 16, cl. 4.)

WHO MAY BE EXAMINED.—(1) Only citizens of the United States of the proper age can be admitted to the examinations, and no person habitually using intoxicating beverages to excess can be appointed. (See Civil Service act, section 8.)

(2) Every one seeking to be examined must first file an application upon an official blank.

(3) No discrimination is allowed on the ground of political or religious opinions. (See Rule 8.)

(4) For limitations of age see Rule 12, clause 2.

The maximum limitations of age referred to do not apply to applicants honorably discharged from the military or naval service of the country, or to those applying for the Special examinations under clause 5 of Rule 7.

WHERE AND HOW TO APPLY FOR EXAMINATION —(1) The blank application paper for the Departmental service should be requested directly of the "United States Civil Service Commission, Washington, D. C.," and when filled and sworn to should be returned to the Commission.

(2) The application paper for the Custom service must be requested of the head of the custom office which the applicant seeks to enter, and returned to that officer.

(3) The application paper for the Postal service must be requested of the postmaster at the post office which the applicant seeks to enter, and returned to that postmaster.

(4) There is no need of seeking the aid of any member of Congress or other influential person to secure an application paper or an examination.

(5) If on application to the proper officer a blank is not received within a reasonable time the fact should be brought to the attention of the Commission.

EXAMINATIONS AND SALARIES IN THE DEPARTMENTAL SERVICE.—(1) Ordinary departmental examinations are divided into two grades, the General examination and the Limited examination.

(2) The General examination is for admission to places having salaries from $1,000 to $1,800, or over. The original admissions are usually at a salary of $1,000, though some of them are at a salary of $1,200. The General examination includes the subjects named in clause 1, Rule 7.

(3) The Limited examination is for admission to places with a salary ranging from $720 to $900 inclusive, original admission being commonly at a salary

of $900. The Limited examination is much easier than the General examination, being mainly confined to the subjects numbered 1 and 2. It may embrace also elementary questions in geography and the writing of a letter. As the work in the places reached by this examination is chiefly copying, a good handwriting is important to success. (See Rule 7, clauses 1 and 4.)

(4) A person who has taken only the Limited examination cannot be appointed to any place requiring the General examination. (See Rule 21, clause1.)

(5) Those who pass the General examination, may, if they do not object, be certified for and appointed to the lower places; but they may afterwards be advanced to the higher without further examination. (Rule 21, clause 2.)

(6) Applicants who have passed the General examination take their chance to get at first a $1,200 or only a $1,000 place as must those who have passed the Limited examination take the chance of getting a $900 place, or only one of the $720 places.

(7) The Departmental examinations, whether General or Limited, are for all places, above defined, in either of the Departments at Washington, and there are no separate examinations for places in any particular Department, except the Special examinations. The applicant must remember that the examination, if it shows the requisite capacity, will only entitle him to be placed on the Register of persons eligible for appointment, and to be certified, in his turn, to the appointing officer when a vacancy shall occur, and when his State is reached in the order of apportionment.

SPECIAL EXAMINATIONS.—(1) For the places in the Departmental service where technical and peculiar qualifications are needed, Special examinations are held. They embrace but a very small part of the whole service. Applicants for these places should file a *special* application paper, and these examinations may be taken in addition to the General or Limited examination. (See clause 5, Rule 7.)

(2) Special examinations are at present held for the *State Department*, the *Patent Office*, the *Pension Office*, the *Signal Office*, the *Geological Survey*, and for *Bookkeepers*. (See Regulations.)

(3) Information in regard to the subjects in these Special examinations will be found in Appendix No. 7.

SUPPLEMENTARY EXAMINATIONS.—(1) Besides the Special examinations above mentioned, examinations supplementary to the General and Limited examinations are open to those who have taken the latter, and may be taken on the same day.

(2) These examinations are in the *French*, *German*, *Spanish*, *Italian*, and *Scandinavian* languages, and in *law*, *medical science*, *stenography*, *type-writing*, *telegraphy*, *drafting*, (topographic, mechanical, architectural and copying), *proof reading*, and for *Assistant Librarians*. A person passing in any one of these subjects, and who has passed the General or Limited examination, is placed upon a Special Register and may be appointed therefrom. (See Regulations, 49-52, and Appendix No. 7.)

EXAMINATIONS AND SALARIES IN THE CUSTOMS SERVICE.—(1) There are three grades of examinations in the Customs Service: 1, for clerks and storekeepers, for whom the questions are about the same in grade as in the general examinations for the Departments; 2, for inspectors, embracing fewer subjects; 3, for night Inspectors and messengers, for whom there is a yet lower grade of questions; 4, for openers and packers, at some offices. In some of the offices there are special customs examinations, in additional subjects, for gaugers, weighers, and examiners. (See Regulation 23.)

(2) The places in the classified customs service give a compensation of $900 and upwards, but do not include any place the appointment to which is made subject to confirmation by the Senate, nor the places excepted under Rule 19.

EXAMINATIONS AND SALARIES IN THE POSTAL SERVICE.—(1) There are in the post-offices three grades of examinations: 1, for clerks; 2, for carriers, and 3, for porters, the last including various subordinate positions. The first is the most difficult and the last is the easiest. (See Regulation 22.)

(2) The classified postal service includes all kinds of service at post-offices above the grade of laborers, and the compensation is too various at the different offices for definite statement here.

RAILWAY MAIL SERVICE.—The railway mail service is not at present embraced under the rules, and applicants for that service cannot therefore be examined for it under the Commission.

LEGAL RESIDENCE.—The law requires the oath of the applicant to actual *bona fide* residence. If the applicant has any doubt as to the place of his legal residence he should consult some competent person on the subject It would not be proper for a commissioner, or any one serving under the Commission, to become the adviser of any applicant on this question, and no such advice will be given.

OCCUPATION AND BUSINESS.- It is not enough in the application paper to use the word agent, clerk, or broker, which gives no idea of the kind of business; nor is it satisfactory to state "no business," merely because the applicant has had only household duties. There should be a *descriptive* statement of the business or occupation.

THE STATEMENTS MUST BE TRUE.—Every false statement knowingly made in the application; or connived at in any certificate which may accompany it, is good cause, not only for exclusion from examination, but for discharge during probation or thereafter. (See Rule 17, clause 3.)

NO ADDITIONAL CERTIFICATES.—No recommendations or certificates, besides those provided for in the application itself, will be received or can be of any use in securing an examination or a certification for appointment. (See Regulation 10)

PLACE OF EXAMINATION.—(1) The examinations for any customs district or for any post-office are held only in that district or office, and by the examining board thereof, which also marks and grades the papers.

(2) Applicants for the Departmental service may be examined either at Washington or at any place in the several States more convenient for the applicant where examinations are ordered by the Commission. Examinations for the Departmental service are occasionally held at the same time with examinations for the Postal and Customs service at the cities named in Rule 5. The examination papers are sent to Washington to be marked by the departmental examiners. All questions are prepared at Washington.

TIME OF HOLDING EXAMINATIONS —The time of holding customs and postal examinations depends upon the needs of the offices in the several branches of the service, and cannot, therefore, be precisely stated long beforehand. But these and other local examinations are held often enough to supply eligible persons for departmental appointments from the several States and Territories.

NOTICE OF EXAMINATIONS.—(1.) Notice of each examination is seasonably given to all applicants for the Departmental service who can properly and conveniently attend it, by the Secretary of the Commission; and by the secretary of the proper board of local examiners to those seeking to enter the Postal or Customs service.

(2.) In case of the inability of the applicant to attend, he will, upon a satisfactory explanation of the facts in writing, receive a notice to attend another examination.

(3.) It is important that the applicant at all times keep the Commission informed of his or her post-office address.

NOTICE OF STANDING.—(1.) Notice of the standing gained, whether the applicant passes or not, will be given by the secretary who gave the notice of examination, *and as soon as practicable after the papers are marked, without any request being made;* but, sometimes, owing to the many papers to be marked, several weeks may elapse before the notice can be sent.

(2.) As under Rule 7 and the regulations, the first three subjects named in clause 1 of that rule (or the parts thereof to which the examination extends) are separately marked, the standing therein may be either higher or lower than the general average given for all the subjects. If the average on these three subjects is above 65, the name will go on the register of eligibles, even though the general average on all the subjects falls below 65. (See Regulations 27–35.)

(3.) No person who has failed on any examination can, within six months thereafter, be admitted to any other examination without the consent of the commission, in writing. Consent to a re examination is given only where sick-

ness or other disabling cause occasioned the failure. No person dismissed from the service for misconduct can be examined within two years thereafter. (See Rules 11 and 16.)

APPORTIONMENT AND CERTIFICATION.—(1.) The law requires appointments to the Departmental service to be apportioned to the States, Territories, and the District of Columbia on the basis of population, and the Commission must make the certifications in such order as to bring about such apportionment. The names for any certification are, therefore, taken from the State or States, etc., which have competent applicants of the sex and grade required, and which are entitled in the order of apportionment. In selecting persons from a State or Territory, etc., for a certification, the Commission sends the names of those standing highest in grade on the proper register for that State or Territory.

(2.) In view of such facts, it ought to be seen that time spent in attempts to change the order of these certifications will be lost. Neither the presence of the applicant in Washington nor writing to the Commission will in the least hasten his certification.

(3.) No requests or recommendations for certification will be considered or regarded. (See Rule 16 and Regulation 10.)

REMOVALS AND APPOINTMENTS.—(1.) The Commission has no part in removals. In appointments it has no participation except as hereinbefore explained. It can help no one to get an appointment. It knows nothing of any vacancy until it receives from the head of the Department the formal request for a certification to fill it; and it has nothing whatever to do with the choice of the appointing officer from those certified.

(2.) There is this exception, however, in regard to removals. The Commission will investigate any charge of an alleged removal by reason of a refusal to pay an assessment for political purposes. (Rule 2.)

WHEN MAY AN APPOINTMENT BE EXPECTED?—(1.) The Commission will not attempt to predict the time or probability of an appointment. The highest mark possible is 100, the lowest which gives eligibility for appointment is 65. Each applicant by his examination practically decides his own standing, and hence his own chances of an early appointment.

(2.) The time of examination is not considered in making certifications, as the highest in grade on the register must be certified first, even though the last examined. Upon strict business principles, the Government insists on the most competent who offer to work for the salary it pays.

(3.) When any State is reached in its order of apportionment the request for a certification may be 1, for females; 2, for males; 3, for those who have passed the limited examination; 4, for those who have passed the general examination; or 5, for those who have passed some one of three or four special examinations. There are, therefore, all these contingencies against the possibility of predicting correctly the particular person who may be selected.

(4.) Neither the Commission nor any one connected therewith can inform applicants of their standing as compared with other persons. (See sec. 5 of the act.)

APPOINTMENT OF WOMEN.—(1.) The civil service act and the rules make no discrimination in regard to sex. The examinations are open alike to both sexes.

(2.) The appointing officer, in his request for certifications, declares whether males or females are desired. The Commission must certify from the sex named. If the sex is not specified, the highest in grade, irrespective of sex, must be certified.

(3.) Very few females are appointed in either the postal or the customs service.

(4.) In the departmental service less than a sixth part of the appointments have thus far been of females; and more than one-third of those examined have been of that sex.

THE GRADE OF APPLICANTS NOT MADE PUBLIC.—The Commission has no wish, on its own account, to conceal the marking of any one, but the injustice and uselessness of making public the failures to pass the examinations are manifest. The Commission and examining boards will not therefore give the standing of applicants to any one but the applicants themselves.

EFFECT OF AN APPOINTMENT.—Applicants who have accepted an appointment, or been tendered one which they fail to accept, are regarded as no longer on the register of eligibles or the record of applicants.

PAPERS CANNOT BE RETURNED—All application papers and accompanying certificates of vouchers are a part of the records which the civil service act requires the Commission to preserve, and under no circumstances will the originals be returned to the applicant.

COMMISSION CANNOT GIVE ADVICE.—The Commission cannot advise persons as to vacancies in the service, nor furnish information as to the duties, salaries, course of promotion, or other facts as to positions, except such as may be found in its reports.

Address all communications to the United States Civil Service Commission, Washington, D. C.

NOTE.—There are now over 14,000 places under the Government in the "classified civil service."

In the Departmental service it embraces places from and including those giving a salary of $720 a year to and including those giving a salary of $2,000 or over. But there are yet various exceptions, mainly incident to incongruous laws in force prior to the Civil Service Act. Nevertheless, the examinations extend to all places or offices above the grade of workmen or laborers who serve regularly in the Departments at Washington, except about five hundred, which are inclusive of all officers confirmed by the Senate.

There are a considerable number of clerkships in the Departmental service for which only very limited attainments, little beyond penmanship and the capacity to spell ordinary words and to apply the elementary rules of arithmetic are required. For these places the Limited Examination is provided. A promotion beyond a salary of $900 a year cannot be made within two years after appointment from a Limited Examination without passing the General Examination.

SPECIMEN SUBJECTS OF EXAMINATION AND QUESTIONS.

It will be understood that the questions are different on each examination, but the following have actually been used, and in general subject and grade they are fair specimens of the whole. (See Rule 7, clause 4.)

DEPARTMENTAL.—SERIES NO. 6.—LIMITED EXAMINATION.

(Covering the first, second, and a part of the fourth subjects.)

(*First subject.*)

Question 1. One of the examiners will read so distinctly, that each person being examined can hear him, one of the exercises for dictation accompanying these papers. In general, not more than fifteen or eighteen words per minute should be read, nor more than five or six words without pause. Give the sense as much as possible, and *be sure that all can hear.* Allow two minutes at the close for punctuation

(TO APPLICANT Write as much as you can of the passage read. If from any cause you miss a word, do not pause, but go on with the next words you hear. *Write clearly and spell correctly.*)

Question 2. Copy the following precisely:

"The amount of the funded debt redeemable at any time before September 1, 1891, which will remain unpaid on the 30th of June, 1883, is about $300,000,000, and upon the foregoing estimates for the fiscal year ending June 30, 1883, the whole funded debt now redeemable could be paid before June 30, 1886. This would leave as the surplus for more than five years the amount of $600,000,000 undisposed of in the Treasury, unless, yielding to the temptation of seeming wealth, expenditures be largely increased. The amount of the loan redeemable in 1891 is only $250,000,000, and, as has been stated, no other loan becomes re-

deemable until 1907, so that the surplus under the conditions supposed will rapidly increase until that date. The amount of the loan of 1907, as already appears, is less than $740,000,000, so that, were it all redeemable, the whole public debt could be paid from a surplus as great as estimated early in the fiscal year ending June 30, 1894."—[*Report of the Secretary of the Treasury*, 1882.]

Question 3. Write the following words, spelling them correctly:

buisnes	excede	achevement
seperate	prescious	reccomendasion
beauro	leekage	beleive
charaty	emenate	registerred
storeage	ocasion	tonage
guager	prinseple	abcense

(*Second subject.*)

Question 1. During the fiscal year 1884 the exportation of cotton from certain American ports was as follows: New Orleans, 703,698,018 pounds; Baltimore, 84,620,654 pounds; New York, 278,358 580 pounds; Yorktown, 11,208,246 pounds; Galveston, 190,574,067 pounds. What was the total number of pounds exported from the ports named?

Question 2. The number of yards of cotton cloth produced in the United States in 1860 was 1,148,252,406, and in 1880, 2,273 278,025. By how many yards did the production of 1880 exceed that of 1860?

Question 3. How long will it take 50 clerks to count $1,500,000 in silver coin, one-half of which is in half dollars, and the other half in quarter dollars, each clerk counting at the rate of fif y pieces a minute? Express the answer in hours.

Question 4. Write in figures one million one thousand and one dollars and one cent.

Question 5. Multiply 657,934 by 3,209.

Question 6. The whole number of pieces of mail matter handled at 112 post-offices was 1,143,518,880. What was the average number of pieces for each office.

Question 7. The War Department expended $1,765.25 for mucilage at $5.75 a dozen quarts. How many quarts were purchased?

Question 8. The Post Office Department bought 6,670 pounds of twine at 19½ cents a pound; 372 pounds of sponge at 65½ cents a pound, and 40½ dozen of ink at $2.50 a dozen. What was the total cost of the purchase?

(*Give the operations in full.*)

(*Fourth subject.*)

Question 1. Write a letter in the space below addressed to Richard Rush, esq., Philadelphia, Pa., on the comparative advantages and disadvantages of city and country life.

This exercise is designed chiefly to test your skill in simple English composition and your knowledge of the rules of punctuation.

DEPARTMENTAL.—SERIES No 6.—GENERAL EXAMINATION.

The first subject is substantially the same as the first subject of the limited examination just stated. (And see Rule 7.)

Second subject.

Question 1. According to the census of 1880 the value of manufactured products of Boston was $130,531,993; Brooklyn, $177,223,142; Chicago, $249,022,948; New York, $472,926,437; Philadelphia, $324,342,935; Saint Louis, $114,333,375. What was the total value of manufactured products of the cities named?

Express in figures the following numbers:

Question 2. One million one thousand one hundred and one.

Question 3. Two hundred and two million one hundred thousand and one, and six hundred-thousandths.

Express in words the following numbers:

Question 4. 103,004.601.00025.

Question 5. 10,010,011,206.

Question 6. The cost price of beef is 10⅝ cents per pound, and of flour 3⅞ cents per pound. A ration consists of 1 lb. 4 oz. of beef and 1 lb. 6 oz. of flour. What will be the cost of 10,840 rations at the above rates?

Question 7. From 1,000 grams of pure gold may be coined 279 of the 10-mark pieces of Germany. One gram is equivalent to 15.432349 Troy grains. The U. S. gold dollar contains 23 22-100 Troy grains. What is the equivalent in U. S. dollars of the 10-mark piece, decimally expressed?

Question 8. Of an importation of wool weighing 42 tons 19 cwt. 3 qrs., 20 lbs., 21 tons 4 cwt. 1 qr. 19 lbs. are sold, and one-half the remainder is lost by fire. How much is left? (The cwt equals 112 lbs.)

Question 9. Two money counters in the Treasury were given packages of redeemed U. S. notes to count. The first received 100 $100 notes, 200 $50 notes, 300 $20 notes, and 400 $10 notes; and of each denomination there were 10 notes discounted 3-10 each. The second counter received 50 $100 notes, 150 $50 notes, 250 $20 notes, and 350 $10 notes; and of each denomination there were 20 notes discounted 2-10 each. What was the total face value of all the notes when issued, the total discount, and the cash value of the notes redeemed?

Question 10. The whole amount of fractional currency issued was $368,724,079.45, and the amount outstanding unredeemed June 30, 1883, $15,354,425.31. What amount had been redeemed at that time, and what per centum was it of the whole amount issued?

(*Give the operations in full.*)

(*Third subject.*)

Question 1. At the close of business July 31, 1884, the interest bearing debt of the United States was as follows: Bonds at 3 per cent., $237,453,250; bonds at 4½ per cent., $250,000,000; bonds at 4 per cent., $737,954,700. What is the total annual interest charge; the average rate of interest the total debt bears (decimal carried to four places); and the amount that would be saved in interest per annum if the entire debt were refunded at 2½ per cent.?

Question 2. The market rate of a 5 per cent. stock is 85½ per cent.; if the purchaser pays brokerage (at ¼ per cent. on par value), what rate of interest does he receive on his investment?

Question 3. How much gold at 111⅛ can be bought for $8,930 in currency?

Question 4. Richard Wells, a contractor, furnished to the Interior Department, January 1, 1882, 645 barrels of flour at $9.45 per barrel; January 16, 1,912 bushels of oats at 57 cents per bushel; April 4, 9,231 pounds of bacon at 9 cents per pound; May 3, 8,264 bushels of corn at 74 cents per bushel; and June 20, 325 barrels of pork at $12.65 per barrel. January 31, 1882, he was paid cash, $885; February 5, $450; April 11, $615.35, and May 30, $4,162.15. On inspection, June 25, 345 pounds of bacon and 35 barrels of pork were condemned and rejected; and on settlement June 30, 1882, he was charged $75 as penalty for failure to deliver goods in time, according to the terms of the contract, allowed a credit of .65 for cartage, and paid the balance due him in cash. State Wells's account with the Interior Department in the form below, with proper headings.

(*Give the operations in full.*)

(*Fourth subject.*)

Question 1. Express in your own language, at greater length and in good prose, changing the principal words, the thoughts contained in the following verses:

"If all the year were playing holidays,
To sport would be as tedious as to work;
But when they seldom come, they wished-for come,
And nothing pleaseth but rare accidents."

Copy the three following sentences and correct the errors of syntax which they contain:

Question 2. Of all other simpletons he was the greatest.

Question 3. "Everybody has recollections which they think worthy of recording."

Question 4. Neither James, John, or Peter were present.

Copy the three following sentences, changing them so as to remove the ambiguities which they contain:

Question 5. He stood at the window in Paris, where the crowd was assembled and saw the conflagration.

Question 6. Walter told his brother William that his face was tied up because he had met with an accident.

Question 7. Please send to me at Washington the "Daily Sun," of Baltimore, where I shall remain next winter.

Question 8. Write a letter of not less than twenty lines, addressed to Hon. John Eaton, Commissioner of Education, giving your views of the proper studies to be taught in the common schools to fit the pupils to become good citizens.

(*Fifth subject.*)

Question 1. Which three States extend farthest north, and which three farthest south?

Question 2. Describe the course of the following rivers, giving the source, direction, and mouth of each: Hudson, Delaware, Potomac, Missouri, Arkansas.

Question 3. What States are bounded in part by the Missouri river?

Question 4. In what wars did the following battles occur: Bunker Hill, Lundy's Lane, Eutaw Springs, Gettysburg, Palo Alto, Lake Erie, Monmouth, Heights of Abraham, Saratoga, Stone River.

Question 5. Name five principal American generals and five British generals of the Revolutionary war.

Question 6. Give the date and circumstance of the Louisiana purchase.

Question 7. Describe the executive branch of the United States Government, and name the several departments belonging to it.

Question 8. Describe the Senate of the United States, giving its numbers and the functions peculiar to it, not belonging to the House of Representatives.

SUPPLEMENTARY DEPARTMENTAL EXAMINATION.—LAW CLERKS.—SERIES No. 1.

(*Subject: Government.*)

Question 1. What is a republican form of government?

Question 2. When did the present Constitution of the United States go into effect?

Question 3. Into what co-ordinate branches is the Government of the United States divided, and what are the principal functions of each?

Question 4. In what ways may the Constitution of the United States be amended?

Question 5. How may a bill vetoed by the President become a law?

Question 6. To what classes of cases does the judicial power of the Supreme Court of the United States extend?

Question 7. What are some of the powers given by the Constitution to Congress?

(*Subject: Law*)

Question 1. What is meant by (1) common law; (2) statute law; (3) municipal ordinance?

Question 2. Define dower at common law, and state the distinction between dower and jointure.

Question 3. What is title in fee-simple?

Question 4. What are the distinctions between a corporation and a partnership?

Question 5. What is a common carrier?

Question 6. State the difference between *quo warranto* and *mandamus*.

Question 7. What is meant by *res adjudicata* and *stare decisis?*

Question 8. What are the leading rules for the interpretation of statutes?
Question 9. What is a contract?
Question 10. State the general rule as to the responsibility of a principal for the acts of his agents.

State Department Special Examinations.

These examinations are made up of two parts, (1) *Obligatory Subjects*, and (2) *Optional Subjects*. All applicants are required to take the former, and must gain a general average in the same of 65 on the scale of 100 in order to be eligible for appointment. It is desired that each applicant shall pass also in one or more of the optional subjects.

The *Obligatory Subjects* for this examination are as follows:
(1) Penmanship, copying, and orthography.
(2) Arithmetic.
(3) English language and letter writing.
(4) General geography and history.
(5) Diplomatic history, embracing the history of prominent treaties, and the wars or disturbances settled by them.
(6) Government and international law, including, especially, the classes, duties, and functions of diplomatic and consular officers.

The *Optional Subjects* are the French, German, Spanish, Italian, and other modern European languages, and the examination in these languages includes translations from each into English and from English into each. The applicant may take one or more of these at his own choice.

The places in the State Department to be filled through these examinations are not numerous, and the vacancies being few, the examinations will be held with such frequency only as may be necessary to keep the register supplied with a reasonable number of names of persons eligible for appointment.

The salaries attached to the clerkships in the State Department are $900, $1,000, $1,200, $1,400, $1,600, and $1,800. Appointments are commonly made to one of the two lower grades, and the higher grades are usually filled by promotions.

Special Civil Service Examinations for Signal Office.

This examination will include questions in the following subjects, viz:
1. French and German languages; 2. Mathematics, including Trigonometry, Analytics, Calculus, and Theory of Errors; 3. Mechanics; 4. Theory of Instruments, Astronomical, Physical and Magnetic; 5. Physics; 6. Meteorology, Tables and Calculations; 7. Personal experience and ability in investigation, and the applicant's scientific publications, if any.

Special Examinations for the Patent Office.

The positions for which special examinations are held are the following:
(1) Assistant examiners.
(2) Assistants in the Scientific Library.
(3) Examiners' clerks.

There are four grades of assistant examiners, namely: First, second, third, and fourth. Admission will be to the lowest grade, which is that of fourth assistant, the salary of which is $1,200 a year.

The examinations for appointment as assistant examiner will include—
(1) *Mathematics.*—Arithmetic, elementary algebra, the elements of plane and volumetric geometry, and mensuration of surfaces and solids.
(2) *Physics.*—Natural philosophy and its problems, and elementary chemistry.
(3) *Technics.*—Mechanics, theoretical and applied; the useful arts, industries, and manufactures; the elements of machinery; the rudiments of engineering and architectural construction.
(4) *Mechanical Drawings.*—Tests of the ability of the candidate readily to read a mechanical drawing and to give an appropriate description of the machine illustrated.

The above subjects are essential. *Optional subjects,* including general chemistry, will be presented as the necessities of the office may require. A sufficient knowledge of German and French to translate from these languages into English at sight is important. The candidate will be required to state the extent of his knowledge of either, and may take an examination in either as an optional subject.

Excellence in optional subjects will entitle the candidate who is successful in the obligatory examination to a place upon a special register, and to preference in case of a vacancy in any division requiring such special knowledge.

Special Examination of Candidates for Pension Office.

The service in the Pension Office for which special examinations may be held includes—

(1) *Examiners,* whose duties are to instruct claimants as to the evidence necessary to establish claims, to brief and prepare cases for final consideration, and to make special examinations in the field when detailed for that purpose.

(2) *Medical Reviewers,* who are required to be physicians of skill and experience, whose duty it is to determine medical questions, including the degree of the disability of claimants, as the basis of the rate of pension.

There are four grades of examiners; but appointments for service in the office at Washington are usually made to the lowest grade, salary $1,200, and the examinations of applicants for examiners will include—

(1) *Orthography, penmanship and letter writing.*

(2) *Arithmetic,* to include fractions, interest, and discount.

(3) *Geography and History* of the United States and its wars.

(4) *The principal provisions of the pension laws.*

(5) *Elementary rules of evidence; competency of witnesses; specimen affidavits.*

(6) Optional.—*Elementary anatomy and hygiene;* disabilities—permanent, variable, climatic, and the common pathological sequences.

The examination of applicants for appointment as medical reviewers will include the first four branches mentioned under head of examiners, with an examination in medicine and surgery, including medical jurisprudence and hygiene. Salary, $1,800

The examination of applicants for appointment as principal examiners will include, in addition to elementary subjects—

1st. The pension laws and their interpretation, the law of marriage, divorce, and evidence, as affecting pensions, and

2nd. Anatomy, physiology, and medical jurisprudence. Salary, $2,000.

Special Examination for Assistant Topographers, United States Geological Survey.

This examination will relate to the following subjects: Algebra; geometry; plane and spherical trigonometry; topographical drawing; theory, use, and adjustment of surveying instruments; hypsometry.

Type-Writing and Stenography.

The examinations in type-writing and stenography are supplementary to the regular examinations for the Departmental service, one of which, either the general or limited (and applicants are requested to distinctly state which), unless previously taken, must be taken in connection therewith.

The examination in stenography will consist of exercises in dictation taken in short hand, to be written out in long hand; and that in type writing will embrace exercises in dictation, copying, tabulating, transcribing rough draft, and questions concerning the use and adjustment of the type-writer or caligraph. Applicants should bring their own machine, as the Commission cannot promise to furnish them.

examinations in languages.

These examinations are supplementary (to either the general or limited examinations) and consist of translations from English into the foreign language and from the latter into English. See Regulations 49-52, and Rule 7, clause 5.*

* See Appendix (A.)

PENSIONS.

The Government of the United States far exceeds in liberality that of all other countries, not only in the regular pay and bounties appropriated for its soldiers, but especially in providing for the necessities of those disabled by wounds and disease in the military service. Such has been the policy and practice of the Government from the earliest period of its history, though the office of Commissioner of Pensions was not created until March 2, 1832. The Mexican war largely increased the force necessary to transact the business in this Bureau, and the late Civil War and the numerous acts providing for the different classes of pensions, back pay, bounties, etc., swelled the business of this office to enormous proportions. The official report for 1886 shows the number of pensioners at that time, of all classes, to have been 365,783, to whom was paid the vast sum of nearly sixty-four million dollars.

There is not unfrequently a delay in receiving a pension certificate, and on this account applicants sometimes become indignant at what they falsely conceive to be the inefficiency or injustice of the Bureau. It is true that the examiners may occasionally make erroneous decisions, but these may be corrected by the Board of Appeals if carried up. Then the stress of business may operate so as to cause some postponement, but the prime cause of delay rests, for the most part, with the claimant himself. He may have made application under the wrong act, his forms may not have been correct, or, if correct, there may have been some error in filling in, or some lack of formality in the authentication, or, perhaps, neglect to obtain the kind of evidence required in the particular case.

The pension laws are numerous and complex. A digest of constructions of these laws and of the decisions, rulings, and orders under them, has been published by the Bureau in a volume of over 600 pages, and new rulings are being made every day. It is not practicable, therefore, in a work of this character, to do more than give the essential parts of the pension laws, stating who are entitled to be placed on the rolls, the amount to which each class is entitled, and the forms of application.

The applicant for pension must exercise patience, remembering the old proverb that "all things come to him who knows how to wait," and must continue his exertions, resting in the assurance that if his claim is just and properly made out, he will be sure to succeed in the end.

It will be most convenient to consider the subject of PENSIONS under two general heads :

First.—The Laws of Congress.

Second.—The Regulations of the Department.

First.—With regard to the laws, only those sections have been republished here, which are of practical interest to claimants. Some sections have been given in full, or substantially, in the "Regulations," some relate to the investment and custody of the fund, some contain directions for the office work of the Bureau, while others provide against fraud. These, and others of like character, have been omitted, as it is not the aim of this work to treat exhaustively of the Pension laws, but only to give the general information which is needed by those seeking to be placed on the Pension rolls. It is believed that nothing of this character has been omitted, and, after careful revision, we think we can safely say, that all the matter herein contained may be relied upon as entirely accurate. With regard to the amendments to the pension laws from time, the most important of these have been reproduced, and follow at the end of the numbered sections.

Second.—The Regulations of the Bureau have been presented in full without the least change or abridgement.

REVISED STATUTES NOW IN FORCE.

SEC. 4692. Every person specified in the several classes enumerated in the following section, who has been, since the fourth day of March, eighteen hundred and sixty-one, or who is hereafter disabled under the conditions therein stated, shall, upon making due proof of the fact, according to such forms and regulations as are or may be provided in pursuance of law, be placed on the list of invalid pensioners of the United States, and be entitled to receive, for a total disability, or a permanent specific disability, such pension as is hereinafter provided in such cases; and for an inferior disability, except in cases of permanent specific disability, for which the rate of pension is expressly provided, an amount proportionate to that provided for total disability; and such pension shall commence as hereinafter provided, and continue during the existence of the disability.

SEC. 4693. The persons entitled as beneficiaries under the preceding section are as follows:

First. Any officer of the Army, including regulars, volunteers, and militia, or any officer in the Navy or Marine Corps, or any enlisted man, however employed, in the military or naval service of the United States, or in its Marine Corps, whether regularly mustered or not, disabled by reason of any wound or injury received, or disease contracted, while in the service of the United States and in the line of duty.

Second. Any master serving on a gunboat, or any pilot, engineer, sailor, or other person not regularly mustered, serving upon any gunboat or war-vessel of the United States, disabled by any wound or injury received, or otherwise incapacitated, while in the line of duty, for procuring his subsistence by manual labor.

Third. Any person not an enlisted soldier in the Army, serving for the time being as a member of the militia of any State, under orders of an officer of the United States, or who volunteered for the time being to serve with any regularly organized military or naval force of the United States, or who otherwise volunteered and rendered service in any engagement with rebels or Indians, disabled in consequence of wounds or injury received in the line of duty in such temporary service. But no claim of a State militiaman, or non-enlisted person, on account of disability from wounds or injury received in battle with rebels or Indians, while temporarily rendering service, shall be valid unless prosecuted to a successful issue prior to the fourth day of July, eighteen hundred and seventy-four.

Fourth. Any acting assistant or contract surgeon disabled by any wound or injury received or disease contracted in the line of duty while actually performing the duties of assistant surgeon or acting assistant surgeon with any military force in the field, or in transitu, or in hospital.

Fifth. Any provost-marshal, deputy provost-marshal, or enrolling-officer disabled, by reason of any wound or injury, received in the discharge of his duty, to procure a subsistence by manual labor.

SEC. 4694. No person shall be entitled to a pension by reason of wounds or injury received or disease contracted in the service of the United States subsequent to the twenty-seventh day of July, eighteen hundred and sixty-eight, unless the person who was wounded, or injured, or contracted the disease was in the line of duty; and, if in the military service, was at the time actually in the field, or on the march, or at some post, fort, or garrison, or en route, by direction of competent authority, to some post, fort, or garrison; or, if in the naval service, was at the time borne on the books of some ship or other vessel of the United States, at sea or in harbor, actually in commission, or was at some naval station, or on his way, by direction of competent authority, to the United States, or to some other vessel, or naval station, or hospital.

SEC. 4695. The pension for total disabilty shall be as follows, namely: For lieutenant colonel and all officers of higher rank in the military service and in the Marine Corps, and for captain and all officers of higher rank, commander, surgeon, paymaster, and chief engineer, respectively ranking with commander by law, lieutenant commanding and master commanding, in the naval service, thirty dollars per month; for major in the military service and in the Marine Corps, and lieutenant, surgeon, paymaster, and chief engineer, respectively ranking with lieutenant by law, and passed assistant surgeon in the naval service, twenty-five dollars per month; for captain in the military service and in the Marine Corps, chaplain in the Army, and provost-marshal, professor of mathematics, master, assistant surgeon, assistant paymaster, and chaplain in the naval service, twenty dollars per month; for first lieutenant in the military service and in the Marine Corps, acting assistant or contract surgeon, and deputy provost-marshal, seventeen dollars per month; for second lieutenant in the military service and in the Marine Corps, first assistant engineer, ensign, and pilot in the naval service, and enrolling-officer, fifteen dollars per month; for cadet-midshipman, passed midshipman, midshipmen, clerks of admirals, and paymasters, and of other officers commanding vessels, second and third assistant engineer, master's mate, and all warrant-officers in the naval service, ten dollars per month; and for all other persons, whose rank or office is not mentioned in this section, eight dollars per month; and the masters, pilots, engineers, sailors, and crews upon the gunboats and war-vessels shall be entitled to receive the pension allowed herein to those of like rank in the naval service.

SEC. 4696. Every commissioned officer of the Army, Navy, or Marine Corps shall receive such and only such pension as is provided in the preceding section for the rank he held at the time he received the injury or contracted the disease which resulted in the disability on account of which he may be entitled to a pension, and any commission or presidential appointment, regularly issued to such person, shall be taken to determine his rank from and after the date, as given in the body of the commission or appointment conferring said rank: *Provided*, That a vacancy existed in the rank thereby conferred; that the person commissioned was not disabled for military duty; and that he did not willfully neglect or refuse to be mustered.

SEC. 4697. For the period commencing July fourth, eighteen hundred and sixty-four, and ending June third, eighteen hundred and seventy-two, those persons entitled to a less pension than hereinafter mentioned, who shall have lost both feet in the military or naval service and in the line of duty, shall be entitled to a pension of twenty dollars per month; for the same period those persons who, under like circumstances, shall have lost both hands or the sight of both eyes, shall be entitled to a pension of twenty five dollars per month; and for the period commencing March third, eighteen hundred and sixty-five, and ending June third, eighteen hundred and seventy-two, those persons who under like circumstances shall have lost one hand and one foot shall be entitled to a pension of twenty dollars per month; and for the period commencing June sixth, eighteen hundred and sixty-six, and ending June third, eighteen hundred and seventy-two, those persons who under like circumstances shall have lost one hand or one foot shall be entitled to a pension of fifteen dollars per month; and for the period commencing June sixth, eighteen hundred and sixty six, and ending June third, eighteen hundred and seventy two, those persons entitled to a less pension than hereinafter mentioned, who by reason of injury received or disease contracted in the military or naval service of the United States and in the line of duty shall have been permanently and totally disabled in both hands [or who shall have lost the sight of one eye, the other having been previously lost,] or who shall have been otherwise so totally and permanently disabled as to render them utterly helpless, or so nearly as to require regular personal aid and attendance of another person, shall be entitled to a pension of twenty-five dollars per month; and for the same period those who under like circumstances shall have been totally and permanently disabled in both feet or in one hand and one foot, or otherwise so disabled as to be incapacitated for the performance of any manual labor, but not so much as to require regular personal aid and attention, shall be entitled to a pension of twenty dollars per month; and for the same period all persons who under like circumstances shall have been totally and permanently disabled in one hand or one feet, or otherwise so disabled as to render

their inability to perform manual labor equivalent to the loss of a hand or foot, shall be entitled to a pension of fifteen dollars per month.

SEC. 4698.* From and after June fourth, eighteen hundred and seventy-two, all persons entitled by law to a less pension than hereinafter specified, who, while in the military or naval service of the United States and in the line of duty, shall have lost the sight of both eyes or shall have lost the sight of one eye, the sight of the other having been previously lost, or shall have lost both hands, or shall have lost both feet, or been permanently and totally disabled in the same, or otherwise so permanently and totally disabled as to render them utterly helpless, or so nearly so as to require the regular personal aid and attendance of another person, shall be entitled to a pension of thirty-one dollars and twenty-five cents per month; and all persons who, under like circumstances shall have lost one hand and one foot, or been totally and permanently disabled in the same, or otherwise so disabled as to be incapacitated for performing any manual labor, but not so much as to require personal aid and attendance, shall be entitled to a pension of twenty-four dollars per month; and all persons who under like circumstances shall have lost one hand or one foot, or been totally and permanently disabled in the same, or otherwise so disabled as to render their incapacity to perform manual labor equivalent to the loss of a hand or foot, shall be entitled to a pension of eighteen dollars per month: *Provided*, That all persons who, under like circumstances, have lost a leg above the knee, and in consequence thereof are so disabled that they cannot use artificial limbs, shall be rated in the second class and receive twenty-four dollars per month from and after June fourth, eighteen hundred and seventy two; and all persons who, under like circumstances, shall have lost the hearing of both ears shall be entitled to a pension of thirteen dollars per month from the same date: *Provided*, That the pension for a disability not permanent, equivalent in degree to any provided for in this section, shall, during the continuance of the disability in such degree, be at the same rate as that herein provided for a permanent disability of like degree.

SEC. [4698½.] Except in cases of permanent specific disabilities, no increase of pension shall be allowed to commence prior to the date of the examining surgeon's certificate establishing the same, made under the pending claim for increase, and in this, as well as all other cases, the certificate of an examining surgeon, or of a board of examining surgeons, shall be subject to the approval of the Commissioner of Pensions.

SEC 4699. The rate of eighteen dollars per month may be proportionately divided for any degree of disability established for which section forty-six hundred and ninety five makes no provision.

SEC. 4700. Officers absent on sick-leave, and enlisted men absent on sick-furlough, or on veteran-furlough with the organization to which they belong, shall be regarded in the administration of the pension laws in the same manner as if they were in the field or hospital.

SEC. 4701. The period of service of all persons entitled to the benefits of the pension laws, or on account of whose death any person may become entitled to a pension, shall be construed to extend to the time of the disbanding the organization to which such persons belonged, or until their actual discharge for other cause than the expiration of the service of such organization.

SEC. 4702.† If any person embraced within the provisions of sections forty-six hundred and ninety-two and forty-six hundred and ninety-three has died since the fourth day of March, eighteen hundred and sixty-one, or hereafter dies by reason of any wound, injury, or disease, which, under the conditions and limitations of such sections, would have entitled him to an invalid pension had he been disabled, his widow, or if there be no widow, or in case of her death, without payment to her of any part of the pension hereinafter mentioned, his child or children, under sixteen years of age, shall be entitled to receive the same pension as the husband or father would have been entitled to, had he been totally disabled, to commence from the death of the husband or father, to continue to the widow during her widowhood, and to his child or children until they severally attain the age of sixteen, and no

* Amended by acts of June 18, 1874 (2); February 28, 1877; June 17, 1878; March 3, 1879; June 16, 1880; March 3, 1883, and March 3, 1885.

† See "Amendments to Pension Laws (*a.*)"

longer; and, if the widow re-marry, the child or children shall be entitled from the date of re-marriage.

SEC. 4703. The pensions of widows shall be increased from and after the twenty-fifth day of July, eighteen hundred and sixty-six, at the rate of two dollars per month for each child under the age of sixteen years of the husband on account of whose death the claim has been, or shall be, granted. And in every case in which the deceased husband has left, or shall leave, no widow, or where his widow has died or married again, or where she has been deprived of her pension under the provisions of the pension law, the pension granted to such child or children shall be increased to the same amount per month that would be allowed under the foregoing provisions to the widow, if living and entitled to a pension: *Provided*, That the additional pension herein granted to the widow on account of the child or children of the husband by a former wife shall be paid to her only for such period of her widowhood as she has been, or shall be, charged with the maintenance of such child or children; for any period during which she has not been, or she shall not be, so charged, it shall be granted and paid to the guardian of such child or children: *Provided, further*, That a widow or guardian to whom increase of pension has been, or shall hereafter be, granted on account of minor children shall not be deprived thereof by reason of their being maintained in whole or in part at the expense of a State or the public in any educational institution, or in any institution organized for the care of soldiers' orphans.

SEC. 4704. In the administration of the pension laws, children born before the marriage of their parents, if acknowledged by the father before or after the marriage, shall be deemed legitimate.

SEC. 4705. The widows of colored and Indian soldiers and sailors who have died, or shall hereafter die, by reason of wounds or injuries received, or casualty received, or disease contracted, in the military or naval service of the United States, and in the line of duty, shall be entitled to receive the pension provided by law without other evidence of marriage than satisfactory proof that the parties were joined in marriage by some ceremony deemed by them obligatory, or habitually recognized each other as man and wife, and were so recognized by their neighbors, and lived together as such up to the date of enlistment, when such soldier or sailor died in the service, or, if otherwise, to date of death; and the children born of any marriage so proved shall be deemed and held to be lawful children of such soldier or sailor, but this section shall not be applicable to any claims on account of persons who enlist after the third day of March, one thousand eight hundred and seventy-three.

SEC. 4706. If any person has died, or shall hereafter die, leaving a widow entitled to a pension by reason of his death, and a child or children under sixteen years of age by such widow, and it shall be duly certified under seal, by any court having probate jurisdiction; that satisfactory evidence has been produced before such court, upon due notice to the widow, that she has abandoned the care of such child or children, or that she is an unsuitable person, by reason of immoral conduct, to have the custody of the same, on presentation of satisfactory evidence thereof to the Commissioner of Pensions, no pension shall be allowed to such widow until such child or children shall have attained the age of sixteen years, any provisions of the law to the contrary notwithstanding, and the said child or children shall be pensioned in the same manner, and from the same date, as if no widow had survived such person, and such pension shall be paid to the guardian of such child or children; but if in any case payment of pension shall have been made to the widow, the pension to the child or children shall commence from the date to which her pension has been paid.

SEC. 4707. If any person embraced within the provisions of sections forty-six hundred and ninety-two and forty-six hundred and ninety three has died since the fourth day of March, eighteen hundred and sixty-one, or shall hereafter die, by reason of any wound, injury, casualty, or disease which, under the conditions and limitations of such sections, would have entitled him to an invalid pension, and has not left or shall not leave a widow or legitimate child, but has left or shall leave other relative or relatives who were dependent upon him for support in whole or in part at the date of his death, such relative or relatives shall be entitled, in the following order of precedence, to receive the same pension as such person would have been entitled to had he been totally

disabled, to commence from the death of such person, namely: First, the mother; secondly, the father; thirdly, orphan brothers and sisters under sixteen years of age, who shall be pensioned jointly: *Provided*, That where orphan children of the same parent have different guardians, or a portion of them only are under guardianship, the share of the joint pension to which each ward shall be entitled shall be paid to the guardian of such ward: *Provided*, That if in case said person shall have left father and mother who are dependent upon him, then, on the death of the mother, the father shall become entitled to the pension, commencing from and after the death of the mother; and upon the death of the mother and father, or upon the death of the father and the remarriage of the mother, the dependent brothers and sisters under sixteen years of age shall jointly become entitled to such pension until they attain the age of sixteen years, respectively, commencing from the death or remarriage of the party who had the prior right to the pension: *Provided*, That a mother shall be assumed to have been dependent upon her son within the meaning of this section if, at the date of his death, she had no other adequate means of support than the ordinary proceeds of her own manual labor and the contributions of said son or of any other persons not legally bound to aid in her support; and if, by actual contributions, or in any other way, the son had recognized his obligations to aid in support of his mother, or was by law bound to such support, and that a father or a minor brother or sister shall, in like manner and under like conditions, be assumed to have been dependent, except that the income which was derived or derivable from his actual or possible manual labor shall be taken into account in estimating a father's means of independent support: *Provided, further*, That the pension allowed to any person on account of his or her dependence, as hereinbefore provided, shall not be paid for any period during which it shall not be necessary as a means of adequate subsistence.

SEC. 4708. The remarriage of any widow, dependent mother, or dependent sister, entitled to pension, shall not bar her right to such pension to the date of her remarriage, whether an application therefor was filed before or after such marriage; but on the remarriage of any widow, dependent mother, or dependent sister, having a pension, such pension shall cease.

SEC. 4709. *Repealed by acts of January* 25 *and March* 3, 1879. "Amendments to Pension Laws (*b*)."

SEC. 4710. *Repealed by acts of January* 25 *and March* 3, 1879. "Amendments to Pension Laws (*b*)."

SEC. 4711. It shall be the duty of the Commissioner of Pensions, upon any application by letter or otherwise by or on behalf of any pensioner entitled to arrears of pension under section forty-seven hundred and nine, or if any such pensioner has died, upon a similar application by or on behalf of any person entitled to receive the accrued pension due such pensioner at his death, to pay or cause to be paid to such pensioner, or other person, all such arrears of pension as the pensioner may be entitled to, or, if dead, would have been entitled to under the provisions of that section had he survived; and no claim agent or other person shall be entitled to receive any compensation for services in making application for arrears of pension.

SEC. 4712.* The provisions of this Title in respect to the rates of pension to persons whose right accrued since the fourth day of March, eighteen hundred and sixty-one, are extended to pensioners whose right to pension accrued under general acts passed since the war of the Revolution and prior to the fourth day of March, eighteen hundred and sixty-one, to take effect from and after the twenty-fifth day of July, eighteen hundred and sixty-six; and the widows of revolutionary soldiers and sailors receiving a less sum shall be paid at the rate of eight dollars per month from and after the twenty-seventh day of July, eighteen hundred and sixty-eight.

SEC. 4713. In all cases in which the cause of disability or death originated in the service prior to the fourth day of March, eighteen hundred and sixty-one, and an application for pension shall not have been filed within three years from the discharge or death of the person on whose account the claim is made, or within three years of the termination of a pension previously granted on account of the service and death of the same person, the pension shall commence

* See "Amendments to Pension Laws (*c*.)"

from the date of filing, by the party prosecuting the claim, the last paper requisite to establish the same. But no claim allowed prior to the sixth day of June eighteen hundred and sixty-six, shall be affected by anything herein contained.

SEC. 4714. Declarations of pension claimants shall be made before a court of record, or before some officer thereof having custody of its seals, said officer hereby being fully authorized and empowered to administer and certify any oath or affirmation relating to any pension or application therefor: *Provided*, That the Commissioner of Pensions may designate, in localities more than twenty-five miles distant from any place at which such court is holden, persons duly qualified to administer oaths, before whom declarations may be made and testimony taken, and may accept declarations of claimants residing in foreign countries made before a United States minister or consul, or before some officer of the country duly authorized to administer oaths for general purposes, and whose official character and signature shall be duly authenticated by the certificate of a United States minister or consul; declarations in claims of Indians made before a United States agent; and declarations in claims under the provisions of this Title relating to pensions for services in the war of eighteen hundred and twelve, made before an officer duly authorized to administer oaths for general purposes, when the applicants, by reason of infirmity of age, are unable to travel: *Provided*, That any declaration made before an officer duly authorized to administer oaths for general purposes shall be accepted to exempt a claim from the limitation as to date of filing prescribed in section forty-seven hundred and nine.

SEC. 4718. If any pensioner has died or shall hereafter die, or if any person entitled to a pension, having an application therefor pending, has died or shall hereafter die, his widow, or if there is no widow, the child or children of such person under the age of sixteen years shall be entitled to receive the accrued pension to the date of the death of such person. Such accrued pension shall not be considered as a part of the assets of the estate of deceased, nor liable to be applied to the payment of the debts of said estate in any case whatever, but shall inure to the sole and exclusive benefit of the widow or children; and if no widow or child survive, no payment whatsoever of the accrued pension shall be made or allowed, except so much as may be necessary to reimburse the person who bore the expenses of the last sickness and burial of the decedent, in cases where he did not leave sufficient assets to meet such expenses.

SEC. 4719. The failure of any pensioner to claim his pension for three years after the same shall have become due shall be deemed presumptive evidence that such pension has legally terminated by reason of the pensioner's death, remarriage, recovery from the disability, or otherwise, and the pensioner's name shall be stricken from the list of pensioners, subject to the right of restoration to the same on a new application by the pensioner, or, if the pensioner is dead, by the widow or minor children entitled to receive the accrued pension, accompanied by evidence satisfactorily accounting for the failure to claim such pension, and by medical evidence in cases of invalids who were not exempt from biennial examinations as to the continuance of the disability.

SEC. 4720.* When the rate, commencement, and duration of a pension allowed by special act are fixed by such act, they shall not be subject to be varied by the provisions and limitations of the general pension law; but when not thus fixed, the rate and continuance of the pension shall be subject to variation in accordance with the general laws, and its commencement shall date from the passage of the special act, and the Commissioner of Pensions shall, upon satisfactory evidence that fraud was perpetrated in obtaining such special act, suspend payment thereupon until the propriety of repealing the same can be considered by Congress.

SEC. 4721. The term of limitation prescribed by sections forty-seven hundred and nine and forty seven hundred and seventeen shall, in pending claims of Indians, be extended to two years from and after the third day of March, eighteen hundred and seventy-three; all proof which has heretofore been taken before an Indian agent, or before an officer of any tribe, competent according to the rules of said tribe to administer oaths, shall be held and regarded by the Pension Office, in the examining and determining of claims of Indians now on

* See "Amendments to Pension Laws, (*d.*)"

file, as of the same validity as if taken before an officer recognized by the law at the time as competent to administer oaths; all proof wanting in said claims hereafter, as well as in those filed after the third day of March, eighteen hundred and seventy-three, shall be taken before the agent of the tribe to which the claimants respectively belong; in regard to dates, all applications of Indians now on file shall be treated as though they were made before a competent officer at their respective dates, and if found to be in other respects conclusive, they shall be allowed; and Indians shall be exempted from the obligation to take the oath to support the Constitution of the United States.

SEC 4722. The provisions of this Title are extended to the officers and privates of the Missouri State militia, and the provisional Missouri militia, disabled by reason of injury received or disease contracted in the line of duty while such militia was co-operating with United States forces, and the widow or children of any such person, dying of injury received or disease contracted under the circumstances herein set forth shall be entitled to the benefits of this Title. But the pensions on account of such militia shall not commence prior to the third day of March, one thousand eight hundred and seventy three

SEC. 4723. All colored persons who enlisted in the Army during the war of the rebellion, and who are now prohibited from receiving bounty and pension on account of being borne on the rolls of their regiments as "slaves," shall be placed on the same footing, as to bounty and pensions, as though they had not been slaves at the date of their enlistment

SEC. 4724. No person in the Army, Navy, or Marine Corps shall draw both a pension as an invalid and the pay of his rank or station in the service, unless the disability for which the pension was granted be such as to occasion his employment in a lower grade, or in the civil branch of the service.

SEC. 4725. All those surviving widows and minor children who have been allowed five years' half-pay, under the provisions of any general laws passed prior to the third day of June, eighteen hundred and fifty-eight, are granted a continuance of such half-pay, to commence from the date of the last payment under the respective acts of Congress, granting the same, and the terms and limitations provided in the following section.

SEC. 4726. Such half-pay is granted to such widows during life, and, where there is no widow, to the children, while under the age of sixteen years; but in case of the remarriage or death of any such widow, the half-pay shall go to the children of the decedent on account of whose services it is claimed, while such children are under sixteen years of age, and no longer.

SEC. 4727. The half pay of such widows and children shall be half the monthly pay of the officers, non commissioned officers, musicians, and privates of the infantry of the Regular Army, and no more, and no greater sum shall be allowed to any such widow or minor children than the half-pay of a lieutenant-colonel. But the two preceding sections shall not be construed to apply to or embrace the case of any person receiving a pension for life on the third day of June, eighteen hundred and fifty-eight; and, wherever half-pay has been granted by any special act of Congress, and renewed or continued under the provisions of those sections, the same shall continue from the date above named: *Provided*, That pensions under this and the two preceding sections shall be varied in accordance with the provisions of section four thousand seven hundred and twelve of this Title.

SEC. 4728. If any officer, warrant or petty officer, seaman, engineer, first, second, or third assistant engineer, fireman, or coal-heaver of the Navy or any marine has been disabled prior to the fourth day of March, eighteen hundred and sixty-one, by reason of any injury received or disease contracted in the service and line of duty, he shall be entitled to receive during the continuance of his disability a pension proportionate to the degree of his disability, not exceeding half the monthly pay of his rank as it existed in January, eighteen hundred and thirty five. But the pension of a chief engineer shall be the same as that of a lieutentant of the Navy; the pension of a first assistant engineer the same as that of a lieutenant of marines; the pension of a second or third assistant engineer the same as that of a forward officer; the pension of a fireman or coal-heaver the same as that of a seaman; but an engineer, fireman, or coal-heaver shall not be entitled to any pension by reason of a disability incurred prior to the thirty-first day of August, eighteen hundred and forty-two.

SEC. 4729. If any person referred to in the preceding section has died in the service, of injury received or disease contracted under the conditions therein stated, his widow shall be entitled to receive half the monthly pay to which the deceased was entitled at the date of his death; and in case of her death or marriage, the child or children under sixteen years of age shall be entitled to the pension. But the rate of pension herein allowed shall be governed by the pay of the Navy as it existed in January, eighteen hundred and thirty-five; and the pension of the widow of a chief engineer shall be the same as that of a widow of a lieutenant in the Navy; the pension of the widow of a first assistant engineer shall be the same as that of the widow of a lieutenant of marines; the pension of the widow of a second or third assistant engineer the same as that of the widow of a forward officer; the pension of the widow of a fireman or coal-heaver shall be the same as that of the widow of a seaman. But the rate of pension prescribed by this and the preceding section shall be varied from and after the twenty-fifth day of July, eighteen hundred and sixty-six, in accordance with the provisions of section four thousand seven hundred and twelve of this Title; and the widow of an engineer, fireman, or coal-heaver shall not be entitled to any pension by reason of the death of her husband, if his death was prior to the thirty-first day of August, eighteen hundred and forty-two.

SEC. 4730. Any officer, non-commissioned officer, musician, or private, whether of the Regular Army or volunteer, disabled by reason of injury received or disease contracted while in the line of duty in actual service in the war with Mexico, or in going to or returning from the same, who received an honorable discharge, shall be entitled to a pension proportionate to his disability, not exceeding for total disability half the pay of his rank at the date at which he received the wound or contracted the disease which resulted in such disability. But no pension shall exceed half the pay of a lieutenant-colonel.

SEC. 4731. If any officer or other person referred to in the preceding section has died, or shall hereafter die, by reason of any injury received or disease contracted under the circumstances therein set forth, his widow shall be entitled to receive the same pension as the husband would have been entitled to had he been totally disabled; and in case of her death or remarriage, the child or children of such officer or other person referred to in the preceding section, while under the age of sixteen years, shall be entitled to receive the pension. But the rate of pension prescribed by this and the preceding section shall be varied after the twenty-fifth day of July, eighteen hundred and sixty-six, in accordance with the provisions of section four thousand seven hundred and twelve of this Title.

SEC. 4732. The widows and children under sixteen years of age, of the officers, non-commissioned officers, musicians, and privates of the regulars, militia, and volunteers of the war of one thousand eight hundred and twelve, and the various Indian wars since one thousand seven hundred and ninety, who remained at the date of their death in the military service of the United States, or who received an honorable discharge and have died or shall hereafter die of injury received or disease contracted in the service and in the line of duty, shall be entitled to receive half the monthly pay to which the deceased was entitled at the time he received the injury or contracted the disease which resulted in his death. But no half pay pension shall exceed the half-pay of a lieutenant-colonel, and such half-pay pension shall be varied after the twenty-fifth day of July, one thousand, eight hundred and sixty-six, in accordance with the provisions of section four thousand seven hundred and twelve of this Title.

SEC. 4733. All pensioners whose names are now on the pension-roll, or who are entitled to restoration to the roll under any act of Congress, shall be entitled to the continuance of such pensions under the provisions and limitations of this Title, and to such further increase of pension as is herein provided.

SEC. 4734. The provisions of law which allow the withholding of the compensation of any person who is in arrears shall not be construed to authorize the pension of any pensioner of the United States to be withheld.

SEC. 4735. No pension shall be granted to a widow for the same time that her husband received one.

SEC. 4741. The officers and seamen of the revenue cutters of the United States, who have been or may be wounded or disabled in the discharge of their duty while co-operating with the Navy by order of the President, shall be entitled

to be placed on the Navy pension-list, at the same rate of pension and under the same regulations and restrictions as are provided by law for the officers and seamen of the Navy.

SEC 4749.* No soldier or sailor shall be taken or held to be a deserter from the Army or Navy who faithfully served according to his enlistment until the nineteenth day of April, eighteen hundred and sixty-five, and who, without proper authority or leave first obtained, quit his command or refused to serve after that date; but nothing herein contained shall operate as a remission of any forfeiture incurred by any such soldier or sailor of his pension; but this section shall be construed solely as a removal of any disability such soldier or sailor may have incurred by the loss of his citizenship in consequence of his desertion.

SEC. 4751. All penalties and forfeitures incurred under the provisions of sections twenty four hundred and sixty-one, twenty four hundred and sixty-two, twenty-four hundred and sixty three, Title "THE PUBLIC LANDS," shall be sued for, recovered, distributed, and accounted for under the directions of the Secretary of the Navy, and shall be paid over, one half to the informers, if any, or captors, where seized, and the other half to the Secretary of the Navy for the use of the Navy pension fund; and the Secretary is authorized to mitigate, in whole or in part, on such terms and conditions as he deems proper, by an order in writing, any fine, penalty, or forfeiture so incurred.

SEC. 4756. There shall be paid out of the naval pension-fund to every person who, from age or infirmity, is disabled from sea service, but who has served as an enlisted person in the Navy or Marine Corps for the period of twenty years, and not been discharged for misconduct, in lieu of being provided with a home in the Naval Asylum, Philadelphia, if he so elects, a sum equal to one-half the pay of his rating at the time he was discharged, to be paid him quarterly, under the direction of the Commissioner of Pensions; and application for such pension shall be made to the Secretary of the Navy, who, upon being satisfied that the applicant comes within the provisions of this section, shall certify the same to the Commissioner of Pensions, and such certificate shall be his warrant for making payment as herein authorized.

SEC. 4757. Every disabled person who has served in the Navy or Marine Corps as an enlisted man for a period not less than ten years, and not been discharged for misconduct, may apply to the Secretary of the Navy for aid from the surplus income of the naval pension-fund; and the Secretary of the Navy is authorized to convene a board of not less than three naval officers, one of whom shall be a surgeon, to examine into the condition of the applicant, and to recommend a suitable amount for his relief, and for a specified time, and upon the approval of such recommendation by the Secretary of the Navy, and a certificate thereof to the Commissioner of Pensions, the amount shall be paid in the same manner as is provided in the preceding section for the payment to persons disabled by long service in the Navy; but no allowance so made shall exceed the rate of a pension for full disability corresponding to the grade of the applicant, nor, if in addition to a pension, exceed one fourth the rate of such pension.

SEC. 4787.† Every officer, soldier, seaman, and marine who was disabled during the war for the suppression of the rebellion, in the military or naval service, and in the line of duty, or in consequence of wounds received or disease contracted therein and who was furnished by the War Department, since the seventeenth day of June, eighteen hundred and seventy, with an artificial limb or apparatus for resection, who was entitled to receive such limb or apparatus since said date, shall be entitled to receive a new limb or apparatus at the expiration of every five years thereafter, under such regulations as have been or may be prescribed by the Surgeon-General of the Army.

SEC. 4788. Every person entitled to the benefits of the preceding section may, if he so elects, receive, instead of such limb or apparatus, the money value thereof, at the following rates, namely: For artificial legs, seventy-five dollars; for arms, fifty dollars; for feet, fifty dollars; for apparatus for resection, fifty dollars.

SEC. 4790. Every person in the military or naval service who lost a limb during the war of the rebellion, but from the nature of his injury is not able

* See "Amendments of Pension Laws." (*e*).

† See Amendments to Pension Laws (*c*).

to use an artificial limb, shall be entitled to the benefits of section forty-seven hundred and eighty-eight, and shall receive money-commutation as therein provided.

SEC. 4791. The Secretary of War is authorized and directed to furnish to the persons embraced by the provisions of section forty-seven hundred and eighty-seven, transportation to and from their homes and the place where they may be required to go to obtain artificial limbs provided for them under authority of law.

MISCELLANEOUS SECTIONS.

SEC. 190. It shall not be lawful for any person appointed after the first day of June, one thousand eight hundred and seventy two, as an officer, clerk or employee in any of the Departments, to act as counsel, attorney or agent for prosecuting any claim against the United States which was pending in either of said Departments while he was such officer, clerk or employee, nor in any manner, nor by any means, to aid in the prosecution of any such claim, within two years next after he shall have ceased to be such officer, clerk or employee.

SEC. 1630. If any person, whether officer or soldier, belonging to the militia of any State, and called out into the service of the United States, be wounded or disabled while in actual service, he shall be taken care of and provided for at the public expense.

SEC. 1656.* When any officer, non commissioned officer, artificer, or private of the militia or volunteer corps dies in the service of the United States, or in returning to his place of residence after being mustered out of service, or at any time in consequence of wounds received in service, and leaves a widow, or if no widow, a child or children under sixteen years of age, such widow, or if no widow, such child or children, shall be entitled to receive half the monthly pay to which the deceased was entitled, at the time of his death, during the term of five years; and in case of the death or intermarriage of such widow before the expiration of five years, the half pay for the remainder of the time shall go the child or children of the decedent. And the Secretary of the Interior shall adopt such forms of evidence, in applications under this section, as the President may prescribe.

SEC. 1657. The volunteers or militia, who have been received into the service of the United States, to suppress Indian depredations in Florida, shall be entitled to all the benefits which are conferred on persons wounded or otherwise disabled in the service of the United States.

SEC. 5485.† Any agent or attorney, or any other person instrumental in prosecuting any claim for pension or bounty-land, who shall directly or indirectly contract for, demand, or receive or retain any greater compensation for his services or instrumentality in prosecuting a claim for pension or bounty land than is provided in the Title pertaining to pensions, or who shall wrongfully withhold from a pensioner or claimant the whole or any part of the pension or claim allowed and due such pensioner of claimant, or the land-warrant issued to any such claimant, shall be deemed guilty of a high misdemeanor, and, upon conviction thereof shall, for every such offense be fined not exceeding five hundred dollars, or imprisonment at hard labor not exceeding two years, or both, at the discretion of the court.

[See §§ 4785, 4786.]

SEC. 5498. Every officer of the United States, or person holding any place of trust or profit, or discharging any official functions under, or in connection with, any executive department of the government of the United States, or

*It is evident from the marginal references in the Revised Statutes opposite the preceding section, as well as from the language of the next section (1657), that section 1656 was intended to be a re-enactment of section 5, act of March 19, 1836, in which act, as shown in its sixth section, it was intended to provide only for those who served in the Florida Indian War of 1835-1842, and in which the benefits of prior laws were extended to those who so served. Section 1656 has always been regarded as being superfluous, as its provisions are fully covered by section 4732 of the Revised Statutes.

†This section is re-enacted in the bill making appropriations for the fiscal year ending June 30, 1882, as follows: "And the provisions of section fifty-four hundred and eighty-five of the Revised Statutes shall be applicable to any person who shall violate the provisions of an act entitled 'An act relating to claim agents and attorneys in pension cases,' approved June twentieth, eighteen hundred and seventy-eight."

under the Senate or House of Representatives of the United States, who acts as an agent or attorney for prosecuting any claim against the United States, or in any manner, or by any means, otherwise than in discharge of his proper official duties, aids or assists in the prosecution or support of any such claim, or receives any gratuity, or any share of or interest in any claim from any claimant against the United States, with the intent to aid or assist, or in consideration of having aided or assisted, in the prosecution of such claim, shall pay a fine of not more than five thousand dollars or suffer imprisonment not more than one year, or both.

AMENDMENTS TO PENSION LAWS.

(*a*)

PENSION LAWS NOW IN FORCE.

AN ACT to amend section forty-seven hundred and two, title fifty-seven, Revised Statutes of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section forty-seven hundred and two, title fifty-seven of the Revised Statutes of the United States, is hereby amended so as to read as follows:

"SEC. 4702. If any person embraced within the provision of sections forty-six hundred and ninety-two and forty-six hundred and ninety-three, has died since the fourth day of March, eighteen hundred and sixty one, or hereafter dies, by reason of any wound, injury, or disease, which under the conditions and limitations of such sections would have entitled him to an invalid pension had he been disabled, his widow, or if there be no widow, or in the case of her death without payment to her of any part of the pension hereinafter mentioned, his child, or children under sixteen years of age, shall be entitled to receive the same pension as the husband or father would have been entitled to had he been totally disabled, to commence from the death of the husband or father, to continue to the widow during her widowhood, and to his child or children until they severally attain the age of sixteen years, and no longer; and if the widow remarry, the child or children shall be entitled from the date of re-marriage, except when such widow has continued to draw the pension money after her re-marriage, in contravention of law, and such child or children have resided with and been supported by her, their pension will commence at the date to which the widow was last paid."

SEC. 2. That marriages, except such as are mentioned in section forty-seven hundred and five of the Revised Statutes shall be proven in pension cases to be legal marriages according to the law of the place where the parties resided at the time of marriage or at the time when the right to pension accrued; and the open and notorious adulterous cohabitation of a widow who is a pensioner shall operate to terminate her pension from the commencement of such cohabitation.

Approved, August 7, 1882.

(*b*)

AN ACT to provide that all pensions on account of death, or wounds received, or disease contracted in the service of the United States during the late war of the rebellion, which have been granted, or which shall hereafter be granted, shall commence from the date of death or discharge from the service of the United States, for the payment of arrears of pensions, and other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all pensions which have been granted under the general laws regulating pensions, or may hereafter be granted, in consequence of death from a cause which originated in the United States service during the continuance of the late war of the rebellion, or in consequence of wounds, injuries, or disease received or contracted in said service during said war of the rebellion, shall commence from the date of the death or discharge from said service of the person on whose account the claim has been or shall hereafter be granted, or from the termination of the right of the party having prior title to such pension: *Provided*, The rate of pension for the intervening time for which arrears of pension are hereby granted shall be the same per month for which the pension was originally granted.

SEC. 2. That the Commissioner of Pensions is hereby authorized and directed to adopt such rules and regulations for the payment of the arrears of pensions hereby granted as will be necessary to cause to be paid to such pensioner, or, if the pensioner shall have died, to the person or persons entitled to the same, all such arrears of pension as the pensioner may be, or would have been, entitled to under this act.

SEC. 3 That section forty-seven hundred and seventeen of the Revised Statutes of the United States, which provides that "no claim for pension not prosecuted to a successful issue within five years from the date of filing the same shall be admitted without record evidence from the War or Navy Department of the injury or the disease which resulted in the disability or death of the person on whose account the claim is made: *Provided*, That in any case in which the limitation prescribed by this section bars the further prosecution of the claim, the claimant may present, through the Pension Office, to the Adjutant-General of the Army or the Surgeon-General of the Navy, evidence that the disease or injury which resulted in the disability or death of the person on whose account the claim is made originated in the service and in the line of duty; and if such evidence is deemed satisfactory by the officer to whom it may be submitted; he shall cause a record of the fact so proved to be made, and a copy of the same to be transmitted to the Commissioner of Pensions, and the bar to the prosecution of the claims shall thereby be removed," be, and the same is hereby, repealed.

SEC. 4. No claim agent or other person shall be entitled to receive any compensation for services in making application for arrears of pension.

SEC. 5. That all acts or parts of acts so far as they may conflict with the provisions of this act be, and the same are hereby, repealed.

Approved, January 25, 1879.

The following provisions were enacted as a portion of the act making appropriations for the payment of the arrears of pensions, approved March 3, 1879:

* * * * * * *

That the rate at which the arrears of invalid pensions shall be allowed and computed in the cases which have been or shall hereafter be allowed, shall be graded according to the degree of the pensioner's disability from time to time, and the provisions of the pension laws in force over the period for which the arrears shall be computed.

That section one of the act of January twenty-fifth, eighteen hundred and seventy nine, granting arrears of pensions, shall be construed to extend to and include pensions on account of soldiers who were enlisted or drafted for the service in the war of the rebellion, but died or incurred disability from a cause originating after the cessation of hostilities, and before being mustered out: *Provided*, That in no case shall arrears of pensions be allowed and paid from a time prior to the date of actual disability.

SEC. 2. All pensions which have been, or which may hereafter be, granted in consequence of death occuring from a cause which originated in the service since the fourth day of March, eighteen hundred and sixty one, or in consequence of wounds or injuries received, or disease contracted since that date, shall commence from the death or discharge of the person on whose account the claim has been or is hereafter granted, if the disability occurred prior to discharge; and if such disability occurred after the discharge, then from the date of actual disability, or from the termination of the right of party having prior title to such pension: *Provided*, The application for such pension has been or is hereafter filed with the Commissioner of Pensions prior to the first day of July, eighteen hundred and eighty, otherwise the pension shall commence from the date of filing the application; but the limitation herein prescribed shall not apply to claims by or in behalf of insane persons and children under sixteen years of age

SEC. 3. Section forty-seven hundred and nine of the Revised Statutes is hereby repealed.

(c)

CHAP. 166.—AN ACT to restore pensions in certain cases.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section three of an act entitled "An act

increasing the pensions of widows and orphans, and for other purposes," approved July twenty-fifth, eighteen hundred and sixty-six, and section thirteen of an act entitled "An act relating to pensions," approved July twenty-seventh, eighteen hundred and sixty-eight, and section forty-seven hundred and twelve of the Revised Statutes, shall not operate to reduce the rate of any pension which had actually been allowed to the commissioned, non-commissioned, or petty officers of the Navy or their widows, or minor children, prior to July twenty-fifth, eighteen hundred and sixty-six; and the Secretary of the Interior is hereby directed to restore all such pensions as have already been so reduced to the rate originally granted and allowed, to take effect from the date of such reduction.

Approved, June 9, 1880.

(*d*)

AN ACT to equalize pensions in certain cases.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all persons entitled to pensions under special acts fixing the rate of such pensions, and now receiving or entitled to receive a less pension than that allowed by the general pension laws under like circumstances, are, in lieu of their present rate of pension, hereby declared to be entitled to the benefits and subject to the limitations of the general pension laws, entitled, "An act to revise, consolidate, and amend the laws relating to pensions," approved March third, eighteen hundred and seventy-three; and that this act go into effect from and after its passage. *Provided*, That this act shall not be construed to reduce any pension granted by special act.

Approved, June 6, 1874.

SEC. 5. That no person who is now receiving or shall hereafter receive a pension under a special act shall be entitled to receive in addition thereto a pension under the general law, unless the special act expressly states that the pension granted thereby is in addition to the pension which said person is entitled to receive under the general law.

Approved, July 25, 1882.

(*e*)

AN ACT to relieve certain soldiers of the late war from the charge of desertion.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the charge of desertion now standing on the rolls and records in the Office of the Adjutant-General of the United States against any soldier who served in the late war in the volunteer service shall be removed in all cases where it shall be made to appear to the satisfaction of the Secretary of War, from such rolls and records or from other satisfactory testimony, that any such soldier served faithfully until the expiration of his term of enlistment, or until the 22d day of May, anno Domini 1865, or was prevented from completing his term of service by reason of wounds received or disease contracted in the line of duty, but who, by reason of absence from his command at the time the same was mustered out, failed to be mustered out and to receive an honorable discharge.

SEC. 2. That the charge of desertion standing on the rolls and records in the Office of the Adjutant-General of the United States against any soldier who served in the late war in the volunteer service shall also be removed in all cases where it shall be made to appear to the satisfaction of the Secretary of War, from such rolls and records, or from other satisfactory testimony, that such soldier charged with desertion or with absence without leave did not intend to desert, and after such charge of desertion or absence without leave voluntarily returned to his command and served in the line of his duty until he was mustered out of the service and received a certificate of honorable discharge.

SEC. 3. That in all cases where the charge of desertion shall be removed under the provisions of this act from the record of any soldier who has not received a certificate of discharge, it shall be the duty of the Adjutant General of the United States to issue to such soldier, or, in case of his death, to his heirs or legal representatives, a certificate of discharge.

SEC. 4. That when the charge of desertion shall be removed under the provisions of this act from the record of any soldier, such soldier, or in case of his death, the heirs or legal representatives of such soldier, shall receive all pay and bounty which may have been withheld on account of such charge of desertion or absence without leave. *Provided, however,* That this act shall not be so construed as to give to any such soldier as may be entitled to relief under the provisions of this act, or, in the case of his death, to the heirs or legal representatives of any such soldier, the right to receive pay and bounty for any period of time during which such soldier was absent from his command without leave of absence: *And provided further,* That no soldier nor the heirs nor legal representatives of any soldier, who served in the Army a period of less than twelve months, or who intentionally deserted shall be entitled to the benefit of the provisions of this act.

SEC. 5. That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved, August 7, 1882.

(*e*)

CHAP. 222.—AN ACT to relieve certain soldiers from the charge of desertion.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the charge of desertion now standing on the rolls and records in the office of the Adjutant-General of the United States against any soldier who served in the late war in the volunteer service shall be removed in all cases where it shall be made to appear to the satisfaction of the Secretary of War, from such rolls and records, or from other satisfactory testimony, that any such soldier served faithfully until the expiration of his term of enlistment, or until the first day of May, anno Domini eighteen hundred and sixty-five, having previously served six months or more, or was prevented from completing his term of service by reason of wounds received or disease contracted in the line of duty, but who, by reason of absence from his command at the time the same was mustered out, failed to be mustered out and to receive an honorable discharge: *Provided,* That no soldier shall be relieved under this section who, not being sick or wounded, left his command without proper authority whilst the same was in the presence of the enemy.

SEC. 2. That the Secretary of War is hereby authorized to remove the charge of desertion from the records of any soldier in the late war upon proper application therefor and satisfactory proof in the following cases:

First. That such soldier, after such charge of desertion was made, and within a reasonable time thereafter, voluntarily returned to his command and served faithfully to the end of his term of service.

Second. That such soldier absented himself without proper authority from hospital, or from furlough given from hospital, while suffering from wounds, injuries, or disease received or contracted in the service in the line of duty, and, on recovery, voluntarily returned to his command and served faithfully until discharged, or died from such wounds, injury, or disease while so absent and before the date of the muster out of his command.

Third. That such soldier absented himself without proper authority from furlough given by proper authority, and while so absent died from wounds, injury, or disease received or contracted in the service in the line of duty before the muster out of his command.

SEC. 3. That in all cases where the charge of desertion shall be removed under the provisions of this act from the record of any soldier who has not received a certificate of discharge, it shall be the duty of the Adjutant-General of the United States to issue to such soldier, or, in case of his death, to his heirs or legal representatives, a certificate of discharge.

SEC. 4. That when the charge of desertion shall be removed under the provisions of this act from the record of any soldier, such soldier, or, in case of

his death, the heirs or legal representatives of such soldier, shall receive the pay and bounty due to such soldier: *Provided, however,* That this act shall not be so construed as to give to any such soldier, or, in case of his death, to the heirs or legal representatives of any such soldier, any pay, bounty, or allowance for any period of time during which such soldier was absent from his command without proper authority, nor shall it be so construed as to give any pay, bounty, or allowance to any soldier, his heirs or legal representatives, who served in the Army a period of less than six months.

SEC. 5. That all applications for relief under this act shall be made to and filed with the Secretary of War within the period of five years from and after its passage, and all applications not so made and filed within said term of five years shall be forever barred and shall not be received or considered.

SEC. 6. That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved, July 5, 1884.

REGULATIONS.

Section 4748, Revised Statutes.

That the Commissioner of Pensions, on application being made to him in person, or by letter, by any claimant or applicant for pension, bounty-land, or other allowance required by law to be adjusted or paid by the Pension Office, shall furnish such person, free of all expense. all such printed instructions and forms as may be necessary in establishing and obtaining said claim; * *

* * * * * * *

An observance of the following instructions will generally enable a claimant to intelligibly present his claim for pension to the Commissioner of Pensions for settlement.

Declarations, Invalid.

A declaration must be filed, which must be executed in conformity to the provisions of section 4714 Revised Statutes.

Blank forms for a declaration will be furnished to claimants upon application therefor, but will not be furnished to attorneys and claim-agents.

The declaration should set forth the company and regiment in which the applicant served, the name of the commanding officer of the company or organization, and the dates of enlistment and discharge. In Navy cases the vessel upon which the claimant served should be stated. If the claim is made on account of a wound or injury, the declaration should set forth the nature and locality of the wound or injury, the time when, the place where, and the circumstances under which it was received, and the duty upon which the applicant was engaged.

If the wound or injury was accidental, the applicant should state whether it happened through his own agency or that of other persons, and he should minutely detail the circumstances under which it was received.

If the claim is made on account of disability from disease, the applicant should state in his declaration when the disease first appeared, the place where he was when it appeared, and the duty upon which he was at the time engaged. He should also detail the circumstances of exposure to the causes which, in his opinion, produced the disease. Whether the application be made on account of disability from injury or disease, the claimant should state the names, numbers, and localities of all hospitals in which he received medical or surgical treatment, giving the dates of his admission thereto as correctly as he may be able.

The applicant should state whether he was in the military or naval service prior to or after the term of service in which his disability originated.

The applicant should state his post-office address. In cities, the street and number of his residence should be given.

The identity of the applicant must be shown by the testimony of two credible witnesses, who must appear with him before the officer by whom the declaration may be taken.

Nature of the evidence required to sustain a claim for invalid pension.

As soon as practicable after the receipt of a claim for pension, application will be made by this office, in Army cases, to the Adjutant-General and the Surgeon-General of the Army, for a report of the applicant's service and evidence in regard to the disability alleged which may appear upon the rolls

and other records in the possession of those officers. In Navy cases, application for such evidence will be made to the proper bureaus of the Navy Department.

When the records of the War or Navy Department do not furnish satisfactory evidence that the disability on account of which the claim is made originated in the service of the United States and in the line of duty, the claimant will be required to furnish such evidence, in accordance with the instructions hereinafter given, compliance with which must be full and definite; and if the disability results from a wound or other injury, the nature and location of the wound or injury, the time when, the place where, and the manner in which it was received, whether in battle or otherwise, should be shown by the affidavit of some one who was a commissioned officer, and had personal knowledge of the facts.

If the person called upon to give evidence is still in the service as a commissioned officer, his certificate will be accepted in lieu of his affidavit.

If there is no record of the disability claimed, the applicant will be called on to furnish the testimony of the surgeon by whom he was treated, showing the location and nature of the wound or injury and the circumstances under which it was received. If the disability arises from disease, the testimony of the person who was surgeon or assistant surgeon of the regiment to which the applicant belonged, or the vessel on which he served, should, if possible, be furnished, showing the name or nature of the disease, the time when, the place where it was contracted, and the circumstances of exposure to the causes which, in his opinion, produced the same.

The surgeon should state whether, in his opinion, the habits of the applicant had any agency in the production of the disease.

In any claim, whether made on account of injury or disease, if it be shown that the testimony of a surgeon, assistant surgeon, or other commissioned officer cannot be produced as evidence of the origin of the disability alleged, the testimony of other persons having personal knowledge of the facts will be considered.

In a claim on account of disability from disease, he must furnish the testimony of the physicians who have attended him since the date of discharge, explicitly setting forth the history of the disease and disability since its first appearance. It is especially important that the physician who first attended the applicant after his discharge should state the date at which his attendance commenced and his condition at that time. If it should not be possible for the applicant to show the condition of his health during the whole period since the date of his discharge by the testimony of physicians, the cause of his inability to do so should be stated by him under oath. The testimony of other persons on this point may then be presented. The statement of the witnesses in regard to the manner in which the applicant was affected should be full and definite, and they should state how they obtained a knowledge of the facts stated by them.

CLAIMS FOR INCREASE OF INVALID PENSIONS.

A pensioner who may deem himself entitled to an increase of pension should file a declaration setting forth the ground upon which he claims such increase.

A declaration for increase of pension, except where a new or different disability than the one for which pension has been granted is alleged, may be taken before any officer duly authorized to administer oaths for general purposes, if it should not be convenient for the pensioner to appear before an officer of a court of record. The official character and signature of the person before whom the declaration may be taken must be certified under the seal of a court of record.

A declaration for increase of pension in which *new* disabilities are alleged as a basis for a claim must be executed before an officer of a court of record in the same manner as original declarations, and in accordance with the provisions of section 4714 of the Revised Statutes.

CLAIMS FOR RENEWAL OF PENSIONS.

Applications for renewal of pension must be made to the Commissioner by a declaration executed as in original claims, setting forth that the cause for which pension was allowed still continues.

In cases of unclaimed pensions, evidence must be filed satisfactorily accounting for the failure to claim such pension; and, in invalid claims, medical evidence showing the continuance of the disability.

Blank forms of declaration will be furnished by this office at the request of the claimant, but will not be furnished to agents or attorneys.

Claims of Widows and Children.

THE DECLARATION.

The blank form of declaration, with the accompanying notes, which is furnished by this office upon the request of a claimant, sufficiently indicates the facts which should be stated by the widow or guardian.

EVIDENCE.

The facts relating to the cause of the soldier's death on account of whom the pension is claimed, including his last illness and date and place of death, should be set forth fully and in detail, and should be proven by the physicians who attended him during his illness; but, when that is impossible, the testimony of other persons who are acquainted with the circumstances may be furnished.

PROOF OF MARRIAGE IN WIDOWS' CLAIMS.

The marriage of the applicant to the person on account of whose service and death the claim is made should be shown—

(1) By a duly verified copy of a church or other public record; or

(2) By the affidavit of the clergyman or magistrate who officiated; or

(3) By the testimony of two or more eye-witnesses to the ceremony; or

(4) By a duly verified copy of the church record of baptism of the children; or

(5) By the testimony of two or more witnesses who knew that the parties lived together as husband and wife, and who will state how long, within their knowledge, such cohabitation continued.

Special provision, however, is made by section 4705 of the Revised Statutes in regard to the character of the evidence which shall be required in the claims of widows and children of colored and Indian soldiers and sailors.

PROOF OF THE DATES OF BIRTH OF CHILDREN.

The dates of birth of children shou'd be proved—

(1) By a duly verified copy of the church record of baptism or other public record; or

(2) By the affidavit of the physician who attended the mother; or

(3) By the testimony of persons who were present at the births, who should state how they are able to testify to the precise dates.

If any child of the person on whose account the claim is made died after the date at which the widow's pension will commence, the date of the death must be shown.

Claims on Behalf of Minor Children.

In claims on behalf of minor children the guardian must furnish proof upon the following points:

(1) A copy of his letters of guardianship, bearing the seal of the court making the appointment, together with the certificate of the court that such appointment has not been revoked; which certificate should also state the amount of the guardian's bond.

(2) The cause and date of the father's death, the marriage of the parents, and the dates of birth of the children must be proved. When, however, satisfactory proof upon these points has been furnished in the claim of the widow, it will not again be required in the claim on behalf of the minors.

(3) If the mother of the children is dead, the date of her death must be proved. If she re-married, her re-marriage must be proved in the same manner that her marriage to the father of the children is required to be proved. If the claim is made on account of the widow having abandoned the children, or on account

of her unfitness to have custody of them, the abandonment or unfitness can be shown only by the certificate of the court having probate jurisdiction.

(4) If the mother of the children died before the father, it must be shown whether he again married.

(5) It must be shown whether the father left any other pensionable child than those for whose benefit the claim is made; and, if so, why such child is not embraced in the application. A guardian is not entitled on account of a child which died prior to the date of the application.

Claims of Dependent Relatives.

DEPENDENT MOTHERS.

A mother must show her relationship, the date and cause of the son's death, and whether he left a widow or minor children surviving, and her dependence upon him for support at the time of his death.

In proof of dependence it must be shown that previous to the date of the said son's decease her husband had died, or that he had permanently abandoned her support, or that on account of disability from injury or disease he was unable to support her. If the husband is dead, the date of his death must be proved. If he abandoned the support of his family, the date of such abandonment and all the facts of the case showing whether he ever returned or ever afterward contributed to the support of the claimant must be fully set forth. If he was disabled, the nature and cause of the disability, and when and to what extent it rendered him unable to support the claimant, must be shown by the testimony of his physician. The extent of his disability during the period from the son's death to the present time should also be shown.

The value of the property of the claimant and her husband, the income which they derive therefrom, and the other means of support possessed by them while she was receiving the contributions of her said son, and from that time to the present, should be shown by the testimony of credible and disinterested witnesses, who must state how they know the facts. The value of property assessed for taxation may be shown by the testimony of the officer having possession of the records relating thereto. The true as compared with the assessed value should be stated.

It must be shown to what extent, for what period, and in what manner her said son contributed to her support, by the testimony of persons for whom the son labored, to whom he paid rent, of whom he purchased groceries, fuel, clothing, or other necessary articles for her use, or of those who otherwise had a knowledge of the contributions of the son, and who must state how they obtained such knowledge. Any letter from the son bearing upon the question of support should be filed. If the son, in any other manner than by actual contributions, acknowledged his obligations to support his mother, or was by law bound to such support, the facts should be shown.

DEPENDENT FATHERS.

A father claiming pension on account of the death of his son, upon whom he was dependent for support, must prove—

(1) The cause and date of his son's death; that said son left no widow or minor child surviving him; the cause and extent of his disability during the period in which the son contributed to his support, and from that time to the present; the amount of his property and all other means of support possessed by him during that period; and the extent of his dependence upon his son for support. The facts of the case in these respects should be shown by such testimony as is required in the claim of a mother.

(2) The date of his marriage, the date of the death of the mother, and the date of birth of the son must be proved.

In case the mother applied for pension, reference should be made to her application, and the number of the same or of her certificate should be given. Evidence upon any point established in her claim will not again be required.

MINOR BROTHERS AND SISTERS.

The claim on behalf of minor brothers and sisters should be made by a guardian duly appointed, who must furnish the evidence of his or her author-

ity under the seal of the court from which the authority was obtained. He must prove the cause and date of the death of the brother on whose account the claim is made, his celibacy, the dates of death of the mother and father, his relationship to the persons on whose behalf the claim is made, the dates of their births, and their dependence upon the brother for support. If the mother or father applied for pension, the number of his or her application or his or her certificate should be given. Evidence upon any point established in the claim of the mother or father will not again be required.

In the administration of the pension laws no distinction is made between brothers and sisters of the half blood and those of the whole blood.

Magistrates, Witnesses, and Testimony.

All evidence in a claim for pension (other than the declaration) may be verified before an officer duly authorized to administer oaths for general purposes, but no evidence verified before an officer who is engaged in the prosecution of the claim or who has a manifest interest therein, will be accepted until he shall have renounced, in writing, all such interest. Exceptions to this rule, in extreme and necessitous cases, where a notary public or justice of the peace other than the attorney of record cannot be had, are held to be within the discretion of the Commissioner, but those exceptions are rare. Any officer before whom testimony in a claim for pension may be taken must therefore set forth in his certificate that he has no interest in the prosecution of such claim.

The official character and signature of the magistrate who may administer the oath must be certified by the proper officer of a court of record under the seal of such court.

When the commission of a notary public or a certified copy of his appointment, with his official seal and signature attached, and the certificate of the clerk of a court or other proper officer to the genuineness of the signature is filed in this office, his own certificate, under his official seal, will be recognized thereafter during his continuance in office; but in the absence of such commission or certified copy of his appointment, an affidavit taken before such officer will not be received in any case unless it be accompanied by a certificate of the proper officer showing his authority and the genuineness of his signature. When a general certificate as to the authority and signature of a notary has been filed in this office, upon all papers verified before him thereafter reference should be made to such general certificate.

When a person authorized to act as a deputy of an officer of a court of record administers an oath to a witness, he must sign his own name to the certificate of the fact, and not that of the person for whom he is acting.

It is desirable that the facts required to be proved in the prosecution of a claim for pension should, if possible, be shown by the testimony of other persons than near relatives of the claimant.

Every fact required to be proved should be shown by the best evidence obtainable. Every witness should state whether he has any interest, direct or indirect, in the prosecution of the claim in which he may be called to testify, and give his post-office address

Witnesses should not merely confirm the statements of other parties, but they should give a detailed statement of the facts known to them in regard to the matter concerning which they may testify, and they should state how they obtained a knowledge of such facts. The officer who may take the deposition must certify as to his knowledge of the credibility of the witnesses, and must state how such knowledge was obtained. If they sign by mark, he must certify that the contents of their depositions were fully made known to them before he administered the oath.

It is desirable that affidavits should be free from interlineations and erasures. When an alteration is made in an affidavit, or an addition is made thereto, it must appear by the certificate of the officer who administered the oath that such alteration or addition was made with the knowledge and sworn consent of the affiant.

In all affidavits from surgeons or physicians, it is desirable that that portion detailing the nature of the disability, dates of treatment and death, symptoms and opinions as to connection between diseases, or injury and disease, should be in the handwriting of the party by whom it is signed. The testimony of any

person as an expert should be drawn up by some one professionally competent to make such a statement.

The official certificates of judicial officers using a seal, or of commissioned officers of the Army and Navy in actual service, will be accepted without affidavit, but all other witnesses must testify under oath.

Copies or Originals of Papers.

Neither the original nor a copy of any essential paper, except the soldier's certificate of discharge from the United States service, filed in a claim before the Pension Office, will be furnished except upon the call of an officer of the Government or of a court in which it may be required for purposes of litigation not against the General Government.

Pensions to the Survivors of the War of 1812, and to their Widows.

The following persons are entitled to pension under the provisions of sections 4736, 4737, and 4738, Revised Statutes:

(1) Officers, soldiers, and sailors who served for sixty days, who have never been pensioned for a disability incurred in the service of the United States. These will be entitled to a full pension of $8 per month from February 14, 1871.

(2) Officers, soldiers and sailors who served for sixty days, but who are in receipt of a pension of less than $8 per month, for disability incurred in the service of the United States, for the difference between the pension now received and $8 per month.

(3) Widows of officers, soldiers, and sailors who served sixty days who were married to the soldier prior to the treaty of peace which terminated said war (February 17, 1815) and who *have not since re-married.* These will be entitled to $8 per month from February 14, 1871.

An honorable discharge in all cases is necessary.

The claimant's identity and loyalty must be proved by two witnesses, certified by the judicial officer to be respectable and credible, who are present and witness the signature of the declarant, and certify to his identity and loyalty under oath or affirmation.

In addition to those above enumerated, the following persons are entitled to pension at $8 per month, from March 9, 1878, for services in said war, under the provision of the act approved on that date:

(1) Officers, soldiers, and sailors who served for fourteen days, and who have never been pensioned for a disability incurred in the service of the United States.

(2) Officers, soldiers, and sailors who served for fourteen days, and are in receipt of a pension of less than $8 per month for disability incurred in the service of the United States, for the difference between the pension now received and $8 per month.

(3) Officers, soldiers, and sailors who were in any engagement.

(4) Widows, without regard to the date of their marriage, and who have not remarried, of the persons described in the preceding three clauses.

An honorable discharge is necessary, but proof of loyalty is not required in claims under the act of March 9, 1878.

Any application for pension on account of service in the war of 1812, heretofore made under the act of Congress approved February 14, 1871, granting pensions, etc., or under sections 4736, 4737, 4738, Revised Statutes, now pending or which stands rejected, will be treated as filed under the amendatory act approved March 9, 1878, upon the claimant filing with the Commissioner of Pensions a statement, signed by him in the presence of two attesting witnesses, requesting that the claim may be adjusted under the act of March 9, 1878. In such cases new applications will not be required.

A new attorney will not be recognized to prosecute any such claim unless, after having filed a power of attorney therein, he shall be called upon to furnish further testimony to establish the claim.

Applications must be made before a court of record, or before some officer thereof having custody of its seal, except where by reason of infirmity of age the claimant is unable to travel, in which case the declaration may be made before any officer authorized to administer oaths for general purposes. The infirmity must be sworn to by the claimant and certified to by the officer before

whom the declaration is made. Applications for restoration to the rolls under the provisions of the act of March 9, 1878, will be made in the usual form for restoration and executed as provided in such cases.

ITEMS OF GENERAL INFORMATION RELATING TO OLD WAR, NAVY, AND BOUNTY-LAND CLAIMS.

(1) There is no provision of law granting Army pension *for service only* in the Mexican war, or any Indian or other war since the Revolution, except the war of 1812 (see paragraph 4). Pensions are allowed for said wars only to those who were wounded or injured or contracted disease in line of duty, or to the widows, and children, under sixteen years of those who died from wounds or injuries received or disease contracted as aforesaid.

(2) The law does not grant a pension either to a father, mother, or brothers and sisters of a soldier or sailor for any service rendered by him prior to the 4th day of March, 1861.

(3) The act of January 25 1879, and amendment, generally known as the arrears act, does not provide for granting arrears of pension in cases where disability is due to, or death ensues from, a cause originating in the service prior to the 4th of March, 1861, nor in cases where pension has been allowed for service only, to wit: 1812 service pensions.

(4) Sections 4736 and 4740, Revised Statutes, made provision for the allowance of pension to soldiers and sailors of the war of 1812 who served for a period of sixty days and who were honorably discharged from the service, and to the widows of said soldiers and sailors, provided they were married prior to the treaty of peace, February 17, 1815. Loyalty to the United States Government during the late rebellion is required under above sections. Act March 9, 1878, provides for all soldiers or sailors of the war of 1812 (or their widows, irrespective of date of marriage), who served for fourteen days, or who were in any battle, and who were honorably discharged from the service. But these provisions do not extend to the *children* or any other *heirs*, nor are the survivors pensioned under the provisions of this law entitled to any *increase* by reason of increase of disability, age, infirmity, etc., the law fixing the rate at $8 per month for all ranks.

(5) The following section of the Revised Statutes shows the only condition under which any allowance can be made to any heirs of a Revolutionary soldier, to-wit: "Section 4742. From and after the 2d day of April, 1862, no claim for a pension or for an increase of pension shall be allowed in favor of the children or other descendants of any person who served in the war of the Revolution, or of the widow of such person, when such person or his widow died without having established a claim to a pension." But the widow of a Revolutionary soldier who served fourteen days or more may obtain a *service pension* under the act of March 9, 1878.

(6) Any arrears which may be due a deceased pensioner can be paid only under the provisions of section 4718 of the Revised Statutes, and where no payment of the pension has been made for a period of three years, the arrears cannot be collected until the pensioner's name has been restored to the rolls under the provisions of section 4719, Revised Statutes.

(7) The widow or minor children of a sailor who served in the Navy prior to the 4th day of March, 1861, is entitled to a pension only in the event of his death *while in the Navy*, from injury or wounds received or disease contracted while in the line of duty.

(8) The granting of pension for ten or twenty years' service in the Navy under sections 4756 and 4757, Revised Statutes, is wholly in the hands of the honorable Secretary of the Navy, and all communications relative thereto should be addressed to the Chief of the Bureau of Equipment and Recruiting, Navy Department, Washington, D. C. A duplicate application should, however, be filed in the Pension Office.

(9) Any service rendered subsequent to the 3d day of March, 1855, does not give title to bounty in lands, and the service rendered before that date, to give title, must have been at least fourteen days *in* and *during* some one of the recognized *wars* in which this country has been engaged.

(10) Copies of discharges can be furnished by this Office only when the originals have been filed with claims made on account of services rendered prior

to March 4, 1861. For certificates in lieu of lost discharges from service since March 4, 1861, application should be made to the Adjutant-General of the Army.

(11) Inquiries relative to the assignment of bounty-land warrants should be addressed to the Commissioner of the General Land Office, and also all communications in regard to homestead lands for services during the late rebellion.

(12) Communications in regard to back pay, extra pay, and bounty in *money* for Army service, should be addressed to the honorable Second Auditor, United States Treasury Department, and for extra pay, prize money, etc., for naval service, to the honorable Fourth Auditor, United States Treasury Department.

REMARKS AS TO ATTORNEYS.

The Pension Office is constantly in receipt of letters from claimants, or others writing for them, asking for information as to the reputation and standing of attorneys and for advice as to the propriety of employing this attorney or that firm to assist in the prosecution of a given claim. The office is often requested to recommend some good reliable attorney for such employment.

The impropriety of such requests must be apparent to all. A compliance with them by the Commissioner of Pensions would be still more improper. The presumption of the office is that every attorney is reliable until the contrary is shown. Claimants must exercise their own discretion in those matters. The Pension Office invariably declines to make suggestions or to furnish advice on that subject. To do differently would be to inaugurate a system whereby unjust discriminations, based upon personal favoritism or personal prejudice, would be unavoidable Claimants and others will, therefore, save the office and themselves much trouble by refraining from correspondence wherein such informatian is requested. In the future, communications upon this subject will not be replied to.

LAWS AND REGULATIONS

GOVERNING THE

RECOGNITION OF AGENTS AND ATTORNEYS.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., February 1, 1886.

LAWS.

The following statutes relate to the recognition of attorneys and agents for claimants before this Department:

"That the Secretary of the Interior may prescribe rules and regulations governing the recognition of agents, attorneys, or other persons representing claimants before his Department, and may require of such persons, agents, or attorneys, before being recognized as representatives of claimants, that they shall show that they are of good moral character and in good repute, possessed of the necessary qualifications to enable them to render such claimants valuable service, and otherwise competent to advise and assist such claimants in the presentation of their claims; and such Secretary may, after notice and opportunity for a hearing, suspend or exclude from further practice before his Department any such person, agent or attorney shown to be incompetent, disreputable, or who refuses to comply with the said rules and regulations, or who shall with intent to defraud, in any manner deceive, mislead, or threaten any claimant or prospective claimant, by word, circular, letter, or by advertisement." (Act July 4th, 1884, Stats., vol. 23, p. 101, Sec. 5.)

"Every officer of the United States, or person holding any place of trust or profit, or discharging any official function under, or in connection with, any Executive Department of the Government of the United States, or under the Senate or House of Representatives of the United States, who acts as an agent or attorney for prosecuting any claim against the United States, or in any manner, or by any means, otherwise than in the discharge of his proper official duties, aids or assists in the prosecution or support of any such claim, or receives any gratuity, or any share of or interest in any claim from any claimant against the United States, with intent to aid or assist, or in consideraton of having aided or assisted, in the prosecution of such claim, shall pay a fine of not more than five thousand dollars, or suffer imprisonment not more than one year, or both." (Section 5498, Revised Statutes.)

"It shall not be lawful for any person appointed after the first day of June, one thousand eight hundred and seventy two, as an officer, clerk, or employee in any of the Departments, to act as counsel, attorney, or agent for prosecuting any claim against the United States, which was pending in either of said Departments while he was such officer, clerk, or employee, nor in any manner, nor by any means, to aid in the prosecution of any such claim, within two years next after he shall have ceased to be such officer, clerk, or employee." (Section 190, Revised Statutes.)

"Any person prosecuting claims, either as attorney or on his own account, before any of the Departments or Bureaus of the United States, shall be required to take the oath of allegiance and to support the Constitution of the United States as required of persons in the civil service. (Section 3478, Revised Statutes.)

"The oath provided for in the preceding section may be taken before any justice of the peace, notary public, or any person who is legally authorized to administer an oath in the State or district where the same may be administered." (Section 3479, Revised Statutes.)

The act of May 13, 1884 (Stats., v. 23, p. 22), provides that the oath above required shall be that prescribed by section 1757, Revised Statutes, which is as follows:

"I, ——— ———, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

REGULATIONS.

Under the authority conferred on the Secretary of the Interior by the fifth section of the act of July 4, 1884, it is hereby prescribed that an attorney-at-law who desires to represent claimants before the Department or one of its Bureaus shall file a certificate, under the seal of a United States, State, or Territorial court that he is an attorney in good standing.

An agent or other person who desires to represent claimants before the Department or one of its Bureaus shall file a certificate from a judge of a United States, State, or Territorial court, duly authenticated under the seal of the court, that such agent or other person is of good moral character and of good repute, possessed of the necessary qualifications to enable him to render such claimants valuable service, and otherwise competent to advise and assist such claimants in the presentation of their claims.

The Secretary may demand additional proof of qualifications, and reserves the right to decline to recognize any attorney, agent or other person applying to represent claimants under this rule.

The oath of allegiance required by section 3478 of the United States Revised Statutes must also be filed.

In the case of a firm the names of the individuals composing the firm must be given, and a certificate and oath as to each member of the firm will be required.

Unless specially called for, the certificate above referred to will not be required of any attorney or agent heretofore recognized and now in good standing before the Department.

An applicant for admission to practice under the above regulations must address a letter to the Secretary of the Interior, inclosing the certificate and oath above required, in which letter his full name and post office address must be given. He must state whether or not he has ever been recognized as attorney or agent before this Department or any Bureau thereof, and if so, whether he has ever been suspended or disbarred from practice. He must also state whether he holds any office under the Government of the United States.

No person who has been an officer, clerk, or employee of this Department within two years prior to his application to appear in any case pending herein shall be recognized or permitted to appear as an attorney or agent in any such case as shall have been pending in the Department at or before the date he left the service.

Provided, this rule shall not apply to officers, clerks or employees of the Patent Office, nor to cases therein.

Whenever an attorney or agent is charged with improper practices in prosecuting a claim before any Bureau of this Department, the head of such Bureau shall investigate the matter, giving the attorney or agent due notice, together with a statement of the charges against him, and allow him an opportunity to be heard in the premises. When the investigation shall have been concluded, all the papers shall be forwarded to the Department, with a statement of the facts and such recommendation as to disbarment from practice as the head of the Bureau may deem proper, for the consideration of the Secretary of the Interior. During the investigation the attorney or agent will be recognized as such, unless for special reasons the Secretary shall order his suspension from practice.

If any attorney or agent in good standing before the Department shall knowingly employ as sub-agent or correspondent a person who has been prohibited from practice before the Department, it will be sufficient reason for the disbarment of the former from practice.

Upon the disbarment of an attorney or agent notice thereof will be given to the heads of Bureaus of this Department, and to the other Executive Departments; and thereafter, until otherwise ordered, such disbarred person will not be recognized as attorney or agent in any claim or other matter before this Department or any Bureau thereof.

L. Q. C. LAMAR,
Secretary.

RULES OF PRACTICE BEFORE THE COMMISSIONER OF PENSIONS.

DEPARTMENT OF THE INTERIOR, PENSION OFFICE,
Washington, D. C., February 1, 1886.

So much of the act of July 4, 1884, as relates to claim agents and attorneys in pension claims, reads as follows (U. S. Stats. at Large, vol. 23, p. 99):

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, * * * That the act entitled "An act relating to claim agents and attorneys in pension cases," approved June twenty, eighteen hundred and seventy-eight, is hereby repealed: *Provided, however*, That the rights of the parties shall not be abridged or affected as to contracts in pending cases, as provided for in said act, but such contracts shall be deemed to be and remain in full force and virtue, and shall be recognized as contemplated by said act.

SEC. 2. That sections 4768, 4769, and 4786, of the Revised Statutes are hereby made applicable also to all cases hereafter filed with the Commissioner of Pensions, and to all cases so filed since June twenty, eighteen hundred and seventy-eight, and which have not been heretofore allowed except as hereinafter provided.

SEC. 3. That section 4785 of the Revised Statutes is hereby re enacted and amended so as to read as follows:

"SEC. 4785. No agent or attorney or other person shall demand or receive any other compensation for his services in prosecuting a claim for pension or bounty land than such as the Commissioner of Pensions shall direct to be paid to him, not exceeding twenty-five dollars; nor shall such agent, attorney, or other person demand or receive such compensation, in whole or in part, until such pension or bounty-land claim shall be allowed: *Provided*, That in all claims allowed since June twenty, eighteen hundred and seventy-eight, where it shall appear to the satisfaction of the Commissioner of Pensions that the fee of ten dollars, or any part thereof, has not been paid, he shall cause the same to be deducted from the pension, and the pension agent to pay the same to the recognized attorney."

SEC. 4. That section 4786 of the Revised Statutes is hereby amended so as to read as follows:

"SEC. 4786. The agent or attorney of record in the prosecution of the case may cause to be filed with the Commissioner of Pensions duplicate articles of agreement without additional cost to the claimant, setting forth the fee agreed upon by the parties, which agreement shall be executed in the presence of and certified by some officer competent to administer oaths. In all cases where application is made for pension or bounty land, and no agreement is filed with the Commissioner as herein provided, the fee shall be ten dollars and no more. And such articles of agreement as may hereafter be filed with the Commissioner of Pensions are not authorized, nor will they be recognized except in claims for original pension, claims for increase of pension on account of a new disability, in claims for restoration where a pensioner's name has been or may hereafter be dropped from the pension-rolls on testimony taken by a special examiner, showing that the disability or cause of death, on account of which the pension was allowed, did not originate in the line of duty, and in cases of dependent relatives whose names have been or may hereafter be dropped from the rolls on like testimony, upon the ground of non-dependence, and in such other cases of difficulty and trouble as the Commissioner of Pensions may see fit to recognize them: *Provided*, That no greater fee than ten dollars shall be demanded, received. or allowed in any claim for pension or bounty land granted by special act of Congress, nor in any claim for increase of pension on account of the increase of the disability for which the pension had been allowed: *And provided further*, That

no fee shall be demanded, received, or allowed in any claim for arrears of pension or arrears of increase of pension allowed by any act of Congress passed subsequent to the date of the allowance of the original claims in which such arrears of pension or of increase of pension may be allowed."

The articles of agreement herein provided for shall be in substance as follows, to-wit:

ARTICLES OF AGREEMENT.

Whereas I, ——— ———, late a ——— in Company ———, of the ——— Regiment of ——— Volunteers, war of ———, having made application for pension under the laws of the United States:

Now this agreement witnesseth: That for and in consideration of services done and to be done in the premises, I hereby agree to allow my agent ——— ———, of ———, the fee of ——— dollars, which shall include all amounts to be paid for any services in the furtherance of said claim; and said fee shall not be demanded by or payable to my said agent, in whole or in part, except in case of the granting of my pension by the Commissioner of Pensions; and that the same shall be paid to ———, in accordance with the provisions of sections 4768 and 4769 of the Revised Statutes United States.

[Signature of claimant.]
[Post-office address.]

[Signature of two witnesses.]

STATE OF ———, *county of* ———, *ss:*

Be it known that on this the ——— day of ———, A. D. 188--, personally appeared ——— ———, the above named, who, after having had read over to ———, in the hearing and presence of the two attesting witnesses, the contents of the foregoing articles of agreement, voluntarily signed and acknowledged the same to be ——— free act and deed.

[L. S.]

——— ———,
[Official signature.]

And now, to-wit, this ——— day of ———, A. D. 188—, ——— accept the provisions contained in the foregoing articles of agreement, and will, to the best of ——— ability, endeavor faithfully to represent the interest of the claimant in the premises. ——— hereby certify that ——— have received from the claimant above named the sum of ——— dollars, and no more; ——— dollars being for fee, and the sum of ——— dollars being for postage and other expenses. And that these agreements have been executed in duplicate, without additional cost to the claimant, as required by law, in excess of the fee above named, the said agent making no charge therefor.

——— ———,
[Signature of agent.]

Witness ——— hand the year and day above written.

STATE OF ———, *county of* ———, *ss:*

Personally came ——— ———, whom I know to be the person ——— represents ——— to be, and who, having signed above acceptance of agreement, acknowledged the same to be ——— free act and deed.

[L. S.]

——— ———,
[Official signature.]

Approved for ——— dollars, and payable to ——— ———, of ———, the recognized attorney.

——— ———,
Commissioner of Pensions.

And if, in the adjudication of any claim for pension in which such articles of agreement have been or may hereafter be filed, it shall appear that the claimant had, prior to the execution thereof, paid to the attorney any sum for his services in such claim, and the amount so paid is not stipulated therein, then every such claim shall be adjudicated in the same manner as though no articles of agreement had been filed, deducting from the fee of ten dollars allowed by law such sum as claimant shall show that he has paid to his said attorney.

Any agent or attorney or other person instrumental in prosecuting any claim for pension or bounty-land who shall, directly or indirectly, contract for, demand, or receive, or retain any greater compensation for his services or instrumentality in prosecuting a claim for pension or bounty-land than is herein provided, or who shall wrongfully withhold from a pensioner or claimant the whole or any part of the pension or claim allowed and due such pensioner or claimant, or the land warrant issued to any such claimant, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall for every such offense be fined not exceeding $500, or imprisonment at hard labor not exceeding two years, or both, in the discretion of the court.

SEC. 5. That the Secretary of the Interior may prescribe rules and regulations governing the recognition of agents, attorneys, or other persons representing claimants before his Department, and may require of such persons, agents, and attorneys, before being recognized as representatives of claimants, that they

shall show that they are of good moral character and in good repute, possessed of the necessary qualifications to enable them to render such claimants valuable service, and otherwise competent to advise and assist such claimants in the presentation of their claims; and such Secretary may, after notice and opportunity for a hearing, suspend or exclude from further practice before his Department any such person, agent, or attorney shown to be incompetent, disreputable, or who refuses to comply with the said rules and regulations, or who shall, with intent to defraud in any manner, deceive, mislead, or threaten any claimant, or prospective claimant, by word, circular, letter, or advertisement.

SEC. 6. The Commissioner shall have power, subject to review by the Secretary, to reject or refuse to recognize any contract for fees, herein provided for, whenever it shall be made to appear that any undue advantage has been taken of the claimant in respect to such contract.

Approved, July 4, 1884.

The following rules of practice before the Commissioner of Pensions will be enforced in this office from and after this date:

RULE 1. A person appearing of record in this office as having complied with the requirements of the regulations prescribed by the Secretary of the Interior for the recognition of attorneys or agents for claimants before the Department of the Interior will be held authorized to prosecute any claim for pension; (1) when in such claims he files a power of attorney from claimant; (2) when he files agreements as to fees and no power of attorney is on file; (3) when the papers filed in the claim are indorsed as filed by him as attorney, agent, or attorney in fact for claimant, and neither a power of attorney nor fee agreement are on file: *Provided*, That the payment of fee shall in the latter case be dependent upon a ratification by claimant, in terms, after full knowledge of all the facts.

RULE 2. In the event that any claimant before this office represented by an attorney of record shall desire pending the prosecution of his claim to change his said attorney, he may be allowed to do so upon condition that the attorney proposed to be so substituted is in good standing as a practitioner before the Commissioner of Pensions, and that any indebtedness to said former attorney for services in said claim shall be paid out of any fee to be finally allowed, which, upon a review of the work done in behalf of claimant in the prosecution of his claim up to the time of the proposed substitution, the Commissioner of Pensions shall in his discretion direct.

RULE 3. The written consent of a claimant is declared essential to a valid assignment of an attorneyship or agency from one attorney or agent to another; and the assignee shall file in each and every claim covered by the assignment the consent herein provided for, as well as a schedule of all claims assigned, which schedule shall set out the name of claimant, regiment, company, number of claim, and the character thereof.

RULE. 4. No attorney-at-law, agent or attorney in fact shall have power to make a valid assignment of any claim in which he has been recognized for the purpose of prosecuting the same, even with the written consent of claimant, except he be at the time of such assignment, and of the consent, in good standing as a practitioner before this office.

RULE 5. No power of attorney purporting to be executed by a claimant will be recognized as a good and valid authority unless the same be signed in the presence of two witnesses and acknowledged before an officer duly authorized to administer oaths for general purposes, whose official character is certified under seal.

RULE 6. No fee contracts filed under the act of July 4, 1884, will be recognized as valid, or payment of fees made thereunder, unless the signature of claimant to the contract is witnessed by two attesting witnesses, and claimant's acknowledgment thereto is before some officer duly authorized to administer oaths for general purposes, whose official signature must be certified under seal. (Commissioner's ruling *in re* Beller, October 21, 1885.)

RULE 7. Articles of agreement in claims for bounty-land will be filed in duplicate, and when the claim shall have been allowed, and the bounty land-warrant issued, one approved copy of said agreement will be forwarded to the attorney of record, and the other preserved with the record of the claim. The bounty-

land warrant will be forwarded direct to the party entitled to the possession thereof.

RULE 8. Payment of fees under contracts filed under the act of July 4, 1884, will be dependent on the approval of the Commissioner of Pensions, based on the services rendered. (Commissioner's ruling *in re* James Clemens, December 3, 1885; *in re* Oscar K. Dean, December 23, 1885; *in re* Francis M. Eastman, December 23, 1885.)

RULE 9. When an attorney, agent, or attorney in fact is disbarred, pending the adjudication of a claim, and, while such disbarment is in force, the claim is adjudicated and the certificate issued, and by reason of such disbarment no fee is certified, and thereafter such attorney, agent, or attorney in fact is restored to practice, and claimant has not by reason of such disbarment canceled or revoked the authority therefore existing, upon such restoration as aforesaid, a fee will be certified pro rata to the services rendered. (Commissioner's ruling *in re* T. J. Latham, guardian, November 27, 1885; *in re* Parmelia Radcliff, November 27, 1885.)

RULE 10. When a claimant, pending the disbarment of his attorney of record, employs another and different attorney, who prosecutes the claim to final adjudication, no fee will be certified the disbarred attorney upon his restoration to practice, but his disbarment will operate as an estoppel, to bar any claim for fee.

RULE 11. Where it appears that an attorney, agent, or attorney of fact has, since July 4, 1884, demanded or received any portion of a fee called for by fee agreements, filed under the act of July 4, 1884, in advance of the successful prosecution of the claim, such payment will be held payment in full, and no further fee certified under the fee agreement. (Commissioner's ruling *in re* J. H. Salmon, *in re* Oliver P. McCarnish, *in re* Chris. C. Evans, *in re* Paul Siebold, November 13, 1885.)

RULE 12. A fee will not be allowed to a guardian who prosecutes the claim of his ward, nor to a firm of attorneys of which the guardian is a member.

RULE 13. Where an attorney or agent is substituted in the place and stead of a former attorney of record in any claim pending as provided by Rule 2, and such substituted agent or attorney files fee agreements, he shall be required to set out in the body of the agreement filed all amounts previously paid the former attorney, and in default thereof said fee agreements will not be recognized or fee certified thereunder.

RULE 14. When attorneys, agents, or attorneys in fact are called on by this office to furnish evidence in any claim, they will be allowed ninety days to furnish such evidence, or give reason why they fail to do so. In default thereof claimant will be notified of such failure, either to file the evidence called for or to show cause why it is not filed, and will be allowed ninety days further to file the same, either himself, or by such other attorney as he may elect; and upon the recognition of such other attorney the former attorney or agent will be estopped from claiming any fee.

RULE 15. To call up a case will not *per se* be held a substantial compliance with any specific requirement of this office. (Commissioner's ruling *in re* George L. Waggoner, October 19, 1885.)

RULE 16. Attorneys will be required to execute due diligence in all cases in which they are recognized as attorneys of record. Neglect to prosecute a claim for one year will be held, in default of cause shown therefor, conclusive evidence of abandonment of a claim by an attorney, and claimant will be so informed. (Commissioner's ruling *in re* George L. Waggoner, October 19, 1885.)

RULE 17. No claims pending in this Bureau will be considered out of the regular order of business upon the request of attorneys, or agents, or any other persons whomsoever, except for good cause shown, and upon the order of the Commissioner of Pensions.

RULE 18. From and after the first day of January, A. D. 1886, all pension agents where claimants allege payment by them of any sum or sums to their attorney of record shall request said claimants to make affidavit to the amount of payment, the date of payment, under what certificate made, and, as far as may be in their recollection, how much payment was made; and that the said affidavit shall be in manner and form substantially as provided by Order No. 124, under date of December 3, 1885.

RULE 19. Each and every affidavit shall be executed in duplicate, one to be retained by the pension agent as his voucher and authority in the premises for

deducting the amount sworn to have been paid, and the duplicate thereof to be promptly forwarded to the Commissioner of Pensions for filing with the record in the claim wherein such affidavit purports to be made.

RULE 20. Where claimant cannot make such affidavit as is herein prescribed and set forth, with reasonable certainty, the pension agent shall pay the fee certified by the Commissioner of Pensions or called for by the fee agreements without deduction: *Provided*, That if, in the opinion of the pension agent, reasonable doubt exists as to the fact of said payment and yet the said claimant be unable to make such affidavit as herein prescribed, said agent shall certify said case to the Commissioner of Pensions for his consideration and decision. (See Sec. 4784, R. S.)

RULE 21. Every attorney, agent, or other person recognized by this Department as entitled to practice before it, or before the Commissioner of Pensions in prosecuting claims for pension, shall cause to be filed with the Commissioner of Pensions, not less than ten (10) days before the same are issued for general circulation, copies of all circular letters intended and framed to solicit business before the Commissioner of Pensions. And if at the end of ten days from filing the same such circular letters are not disapproved, and notice thereof furnished the person filing the same they shall be held *prima facie* to be in manner and form approved.

RULE 22. Claims for increase of pension shall not be considered or held as claims pending within the prohibition of section 190, Revised Statutes of the United States. (Secretary's decision in the appeal of Luther Harrison, October 6, 1885; Commissioner's ruling *in re* Deloss E. Topping, November 20, 1885.

RULE 23. Appeals by attorneys or agents to the Secretary of the Interior in pension and bounty-land cases will not be considered unless the Commissioner of Pensions has taken final action upon the question to which they relate. Such appeals must be addressed to the Secretary of the Interior, and must set forth the specific errors of law or of fact upon which they are based. Appeals which do not conform to the above requirements will be dismissed as informal.

RULE 24. All rules and parts of rules heretofore in force in conflict herewith are herewith repealed

JOHN C. BLACK,
Commissioner of Pensions.

Approved.

L. Q. C. LAMAR,
Secretary.

PENSION LAWS NOW IN FORCE.

AN ACT to increase the pension of soldiers and sailors who have been totally disabled.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section four of the act entitled "An act to revise, consolidate, and amend the laws relating to pensions," and approved March third, eighteen hundred and seventy-three, be so amended that all persons who, while in the military or naval service of the United States, and in the line of duty, shall have been so permanently and totally disabled as to require the regular personal aid and attendance of another person, by the loss of the sight of both eyes or by the loss of the sight of one eye, the sight of the other having been previously lost, or by the loss of both hands, or by the loss of both feet, or by any injury resulting in total and permanent helplessness, shall be entitled to a pension of fifty dollars per month; and this shall be in lieu of a pension of thirty one dollars and twenty-five cents per month granted to such person by said section: *Provided,* That the increase of pension shall not be granted by reason of any of the injuries herein specified, unless the same shall have resulted in permanent, total helplessness, requiring the regular personal aid and attendance of another person.

SEC. 2. That this act shall take effect from and after the fourth day of June, eighteen hundred and seventy-four.

Approved, June 18, 1874.

AN ACT to allow a pension of thirty-six dollars per month to soldiers who have lost both an arm and a leg.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all persons who, while in the military or naval service of the United States, and in the line of duty, shall have lost one hand and one foot, or been totally and permanently disabled in both, shall be entitled to a pension for each of such disabilities, and at such a rate as is provided for by the provisions of the existing laws for each disability: *Provided,* That this act shall not be so construed as to reduce pensions in each case.

Approved, February 28, 1877.

AN ACT equalizing pensions of certain officers in the Navy.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act, the pension for total disability of passed assistant engineers, assistant engineers, and cadet engineers in the naval service, respectively, shall be the same as the pensions allowed to officers of the line in the naval service with whom they have relative rank; and that all acts or parts of acts, inconsistent herewith be, and the same are hereby, repealed.

Approved, March 3, 1877.

AN ACT to increase the pension of certain pensioned soldiers and sailors who have lost both their hands or both their feet or the sight of both eyes in the service of the country.

Whereas, it is apparent that the present pension paid to soldiers and sailors who have lost both their hands or both their feet in the service of the country is greatly inadequate to the support of such as have families: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That on and after the passage of this act, all soldiers and sailors who have lost either both their hands or both their feet or the sight of both eyes in the service of the United States, shall receive, in lieu

of all pensions now paid them by the Government of the United States, and there shall be paid to them, in the same manner as pensions are now paid to such persons, the sum of seventy-two dollars per month.

Approved, June 17, 1878.

AN ACT relating to soldiers while in the civil service of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all persons who, under and by virtue of the first section of the act entitled "An act supplementary to the several acts relating to pensions," approved March third, eighteen hundred and sixty-five, were deprived of their pensions during any portion of the time from the third of March, eighteen hundred and sixty-five, to the sixth of June, eighteen hundred and sixty-six, by reason of their being in the civil service of the United States, shall be paid their said pensions, withheld by virtue of said section of the act aforesaid, for and during the said period of time from the third of March, eighteen hundred and sixty five, to the sixth of June, eighteen hundred and sixty-six.

Approved, March 1, 1879.

AN ACT for the relief of soldiers and sailors becoming totally blind in the service of the country.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act of June seventeenth, eighteen hundred and seventy-eight, entitled an "Act to increase the pensions of certain soldiers and sailors who have lost both their hands or both their feet, or the sight of both eyes, in the service of the country" be so construed as to include all soldiers and sailors who have become totally blind from causes occurring in the service of the United States.

Approved, March 3, 1879.

AN ACT for the relief of certain pensioners.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all pensioners now on the pension rolls, or who may hereafter be placed thereon, for amputation of either leg at the hip joint, shall receive a pension at the rate of thirty-seven dollars and fifty cents per month from the date of the approval of this act.

Approved, March 3, 1879.

CHAP. 236.—AN ACT to increase the pension of certain pensioned soldiers and sailors who are utterly helpless from injuries received or disease contracted while in the United States service.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all soldiers and sailors who are now receiving a pension of fifty dollars per month, under the provisions of an act entitled "An act to increase the pension of soldiers and sailors who have been totally disabled," approved June eighteenth, eighteen hundred and seventy-four, shall receive, in lieu of all pensions now paid them by the Government of the United States, and there shall be paid them in the same manner as pensions are now paid to such persons, the sum of seventy-two dollars per month.

SEC. 2. All pensioners whose pensions shall be increased by the provisions of this act from fifty dollars per month to seventy-two dollars per month shall be paid the difference between said sums monthly, from June seventeenth, eighteen hundred and seventy-eight, to the time of the taking effect of this act.

Approved, June 16, 1880.

CHAP. 91.—AN ACT to amend the pension laws by increasing the pensions of soldiers and sailors who have lost an arm or leg in the service, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act all persons on the pension rolls, and all persons hereafter granted a pension, who, while in the military or naval service of the United States, and in the line of duty, shall

have lost one hand or one foot, or been totally or permanently disabled in the same, or otherwise so disabled as to render their incapacity to perform manual labor equivalent to the loss of a hand or a foot, shall receive a pension of twenty-four dollars per month; that all persons now on the pension-roll, and all persons hereafter granted a pension, who in like manner shall have lost either an arm at or above the elbow, or a leg at or above the knee, or shall have been otherwise so disabled as to be incapacitated for performing any manual labor, but not so much as to require regular personal aid and attendance, shall receive a pension of thirty dollars per month: *Provided*, That nothing contained in this act shall be construed to repeal section forty six hundred and ninety-nine of the Revised Statutes of the United States, or to change the rate of eighteen dollars per month therein mentioned to be proportionately divided for any degree of disability established for which section forty-six hundred and ninety-five makes no provision.

Approved, March 3, 1883.

CHAP. 63.—AN ACT to provide for the muster and pay of certain officers and enlisted men of the volunteer forces.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint resolution approved July eleventh, eighteen hundred and seventy, entitled "Joint resolution amendatory of joint resolution for the relief of certain officers of the Army," approved July twenty-sixth, eighteen hundred and sixty-six, is hereby so amended and shall be so construed that in all cases arising under the same any person who was duly appointed and commissioned, whether his commission was actually received by him or not, shall be considered as commissioned to the grade therein named from the date when his commission was actually issued by competent authority, and shall be entitled to all pay and emoluments as if actually mustered at such date: *Provided*, That at the date of his commission he was actually performing the duties of the grade to which he was so commissioned, or, if not so performing such duties, then from such time after the date of his commission as he may have actually entered upon such duties; *And provided further*, That any person held as prisoner of war, or who may have been absent by reason of wounds or in hospital by reason of disability received in the service in the line of duty, at the date of his commission, if a vacancy existed for him in the grade to which so commissioned, shall be entitled to the same pay and emoluments as if actually performing the duties of the grade to which he was commissioned and actually mustered at such date: *And provided further*, That this act and the resolution hereby amended shall be construed to apply only in those cases where the commission bears date prior to June twentieth, eighteen hundred and sixty-three, or after that date when their commands were not below the minimum number required by existing laws and regulations: *And provided further*, That the pay and allowance actually received shall be deducted from the sums to be paid under this act.

SEC. 2. That the heirs or legal representatives of any officer whose muster into the service has been or shall be amended hereby shall be entitled to receive the arrears of pay due such officer, and the pension, if any, authorized by law, for the grade into which such officer is mustered under the provisions of this act.

SEC. 3. That all claims arising under this act shall be presented to and filed in the proper Department within three years from and after the passage hereof, and all such claims not so presented and filed within said three years shall be forever barred, and no allowance ever made thereon.

SEC. 4. That the pay and allowances of a rank or grade paid to and received by any military or naval officer in good faith for services actually performed by such officer in such rank or grade during the war of the rebellion shall not be charged to or recovered back from such officer because of any defect in the title of such officer to the office, rank, or grade in which such services were so actually performed.

Approved, June 3, 1884.

AN ACT to increase the pensions of widows and dependent relatives of deceased soldiers and sailors.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act

the rate of pension for widows, minor children, and dependent relatives now on the pension roll, or hereafter to be placed on the pension roll, and entitled to receive a less rate than hereinafter provided, shall be twelve dollars per month; and nothing herein shall be construed to affect the existing allowance of two dollars per month for each child under the age of sixteen years: *Provided*, That this act shall apply only to widows who were married to the deceased soldier or sailor prior to its passage and to those who may hereafter marry prior to or during the service of the soldier or sailor. And all acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

SEC. 2. That no claim agent or attorney shall be recognized in the adjudication of claims under this act, nor shall any such person be entitled to receive any compensation whatever for services or pretended services in making applications thereunder.

Approved, March 19, 1886.

AN ACT to remove the charge of desertion from the rolls and records in the office of the Adjutant-General of the Army against certain soldiers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the charge of desertion now standing on the rolls and records in the Office of the Adjutant-General of the Army against any soldier who served in the late war of the rebellion, by reason of his having enlisted in any regiment, troop, or company without having first received a discharge from the regiment, troop, or company in which he had previously served, shall be removed in all cases wherein it shall be made to appear to the satisfaction of the Secretary of War, from such rolls and records or from other satisfactory testimony, that such re-enlistment was not made for the purpose of securing bounty or other gratuity that he would not have been entitled to had he remained under his original term of enlistment: *Provided*, That no soldier shall be relieved under this act who, not being sick or wounded, left his command, without proper authority, while the same was in the presence of the enemy, or who, at the time of leaving his command, was in arrest or under charges, or in whose case the period of absence from the service exceeded three months.

SEC. 2. That in all cases where the charge of desertion shall be removed under the provisions of this act, the Adjutant-General of the Army shall issue to such soldier, or in case of his death, to his heirs or legal representatives, a certificate of discharge from the regiment, troop, or company in which he first served.

SEC. 3. That all applications for relief under this act shall be made to and filed with the Secretary of War within a period of five years from and after its passage, and all applications not so made and filed within such period of five years shall not be received or considered; and all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved, May 17, 1886.

AN ACT to amend the pension laws by increasing the pension of soldiers and sailors who have lost an arm or leg in the service.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act all persons on the pension-rolls, and all persons hereafter granted a pension, who, while in the military or naval service of the United States and in the line of duty, shall have lost one hand or one foot, or been totally disabled in the same, shall receive a pension of thirty dollars per month; that all persons now on the pension-rolls, and all persons hereafter granted a pension, who in like manner shall have lost either an arm at or above the elbow or a leg at or above the knee, or been totally disabled in the same, shall receive a pension of thirty-six dollars per month; and that all persons now on the pension-rolls, and all persons hereafter granted a pension, who in like manner shall have lost either an arm at the shoulder-joint or a leg at the hip joint, or so near the joint as to prevent the use of an artificial limb, shall receive a pension at the rate of forty-five dollars per month; *Provided*, That nothing contained in this act shall be construed to repeal

section forty-six hundred and ninety-nine of the Revised Statutes of the United States, or to change the rate of eighteen dollars per month therein mentioned to be proportionately divided for any degree of disability established for which section forty-six hundred and ninety-five makes no provision.

Approved, August 4, 1886.

THE GENERAL LAND OFFICE.

RIGHTS OF CITIZENS AND OTHERS IN THE PUBLIC DOMAIN—HOW TITLES MAY BE ACQUIRED AND LOST—HOMESTEADS, PRE-EMPTIONS, SOLDIERS' CLAIMS, TIMBER CULTURE, DESERT LANDS, ETC.—RULES OF PROCEDURE.

Uncle Sam is, or perhaps was, one of the greatest land-owners on the globe. Unlike some other land-owners, his anxiety has been to sell or give land to everybody who would settle upon and improve it. This generosity attracted the tribe of greedy land-sharks, eager to defraud the Government, or the honest settler. Hence there exists the elaborate land system of the United States, which occupies one of the largest bureaus of the Interior Department, and employs officers and special agents in almost all parts of the country.

The following pages present an outline of the most important laws and Department rulings in reference to such Government land as can be acquired by an individual through purchase or settlement. These laws were intended to be for the good of the greatest number, and wherever they seem strict or intricate, it will generally be found that it was necessary to provide safeguards against abuse.

OFFICIAL CIRCULAR.

In Reference to the Manner of Acquiring Title to the Public Lands.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
WASHINGTON, D. C.

The public lands of the United States are included within the States of Alabama, Arkansas, California, Colorado, Florida, Illinois, Indiana, Iowa, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, Ohio, Oregon, Wisconsin, and the Territories of Arizona, Dakota, Idaho, Montana, New Mexico, Utah, Washington and Wyoming. In Ohio, Indiana, and Illinois a very few isolated tracts of public land remain.

These States and Territories—with the exception of the three last mentioned—are divided into land districts, in each of which there is a land office established by law, with a Register and a Receiver in attendance for the sale or other disposal of the public lands within that district. (For duties of Register and Receiver, see sections 2234 to 2247 of the Revised Statutes of the United States.)

Any proper information regarding vacant public lands may be obtained by application at any of these land offices.

ACQUISITION OF TITLE.

Title to public lands may be acquired by purchase at public sale, or by ordinary private entry, and by virtue of the pre-emption, homestead, timber-culture, and other laws.

Lands may be purchased at public auction by the highest bidder when offered pursuant to proclamation of the President, or under public notice in accordance with directions from the General Land Office. (Rev. Stat., Secs. 2353, 2357, 2358, 2359 2360, 2455.)

Lands which, having been offered at public sale, remain unsold, if not afterward reserved or withdrawn from market, are liable to private entry or location. (Rev. Stat., 2354, 2357.)

No land shall be sold, either at public or private sale, at less than one dollar and twenty-five cents per acre, which is therefore called the "*minimum* price;" and lands held for sale at that price are called "*minimum* lands." (Rev. Stat., 2357.)

When one half the public lands within a prescribed distance along the line of any railroad, military road, or other work of internal improvement have been granted to aid in the construction thereof, the alternate sections reserved to the United States are, under the provisions of the granting acts and other statutes, doubled in price and held for sale at two dollars and fifty cents per acre, which is therefore called the "*double*-minimum price;" and such lands are called "*double-minimum* lands." (Rev. Stat., 2357.)

All lands which were put in market at the enhanced (double-minimum) price prior to the 1st of January, 1861, were, by the third section of the act of Congress of June 15, 1880, reduced in price to $1.25 per acre. They are not, however, subject to private entry at the reduced price until again offered at public sale. (21 Stat. 237; Eldred *v.* Sexton, 19 Wallace, Rep.)

Any person desiring to purchase a portion of the public land for cash must present a written application to the register for the district in which the land described is situated, describing the tract and giving its area. If the tract is vacant, the register will so certify to the receiver, stating the price, and the applicant must pay to the latter the amount of the purchase-money. Thereupon the receiver will issue his receipt in duplicate to the purchaser for the money paid. The register will then issue his certificate of purchase.

At the close of the month the register and receiver will make returns of the sale to the General Land Office, from which, when the proceedings are found regular, a patent or complete title will be issued; and on surrender of the duplicate receipt such patent will be delivered, at the option of the patentee, either by the Commissioner at Washington, or by the register at the district land office. (Rev. Stat., Secs. 2245, 2355, 2356.)

CASH PURCHASE BY TIMBER TRESPASSERS.

In addition to the foregoing in reference to purchase at public offering and purchase or location at ordinary private entry, it is to be noted that the first section of the act of Congress of June 15, 1880 (21 Stat., 237) having reference to cases of timber trespasses upon the public lands committed prior to March 1, 1879, extends to such trespassers the privilege of paying for the land upon which the offenses were so committed at the price per acre for which, under the law in force at date of payment, the lands could be sold. This privilege of purchase is not confined to lands subject to private entry, but extends to any lands, not mineral, subject to disposal under general existing laws.

This section cannot be construed to permit a party who falls within the class of offenders named to enter the land if the valid claim of another person shall have attached prior to his application to purchase and be still subsisting.

Where lands are plainly subject to ordinary private entry, no special application to purchase, other than the usual application in cases of private entry, is required in order to enable the purchaser to avail himself of the benefits of this act. When lands are not plainly subject to ordinary private entry, and application to purchase the same shall be made with a view to securing the immunity contemplated by said first section, the district officers will require the application to be presented under oath of the applicant, giving a full and detailed statement of all the facts upon which he bases his claim to purchase. Such sworn statement must be corroborated by the affidavits of credible witnesses, and the officers

will thereupon forward all the papers in a special letter to the General Land Office, and await instructions before admitting an entry. Entries allowed will be included in the regular cash returns and accounts, the papers being issued as usual in cash entries, on which will be made a note referring to the statute and to the Commissioner's letter authorizing the same.

WARRANT LOCATIONS.

Warrants issued to soldiers of the United States as a bounty for military services may be located upon any public land subject to private entry at the time of such location, application being made the same as if cash were to be paid as the consideration for the land. The warrant must be duly assigned. The amount of land called for by the warrant must be located in a compact body. (Rev Stat., 2414, 2415.)

(Bounty warrants were not issued to soldiers and sailors for military services in the late civil war. The only privileges granted them in connection with the public lands will be found set forth hereafter, under the head "Homestead Entries," The bounties for military services in the last war were not given in land, but in *money.*)

Military bounty warrants are not located upon any public lands except such as are at the time of location subject to sale at the minimum price or one dollar and a quarter per acre (section 5 of act of March 3 1855; 10 Stats., 702.) Therefore, where the holder of a warrant wishes to obtain land subject to double minimum price he must furnish a warrant of such denomination as will, at the value of $1.25 per acre, cover the rated price of the land, or he must pay one dollar and a quarter per acre in addition to the surrendered warrant. For example: a tract of forty acres of land held at $2.50 per acre can be paid for with an eighty-acre warrant, or with a forty-acre warrant and fifty dollars in cash.

If there is a small excess in the area of the tract over the quantity called for on the face of the warrant in any case, such excess may be paid for in money. If the tract contains a less number of acres, rated at $1.25 per acre, the warrant must be surrendered in full satisfaction. (Rev. Stat., Sec., 2415.)

The following fees are chargeable by the land officers, under section 2238 of the Revised Statutes, for their services in the location of land warrants, and the several amounts must be *paid at the time of location:*

For a 40-acre warrant, 50 cents each to the register and receiver; total	$1 00
For a 60-acre warrant, 75 cents each to the register and receiver; total	1 50
For an 80-acre warrant, $1 each to the register and receiver; total	2 00
For a 120 acre warrant, $1.50 each to the register and receiver; total	3 00
For a 160-acre warrant, $2 each to the register and receiver; total	4 00

AGRICULTURAL COLLEGE SCRIP LOCATIONS.

Agricultural College scrip is ued under act of July 2, 1861, (12 Stat., 503,) and March 3, 1883, (22 Stat., 484), may be used—

First. In the location of land at *"private entry;"* but when so used is applicable only to lands not mineral which may be subject to private entry at $1.25 per acre, and is restricted to a technical *"quarter section,"*—that is, land embraced by the quarter-section lines indicated on the official plats of survey; or it may be located on a *part* of a "quarter section," where such part is taken as in full for a quarter; but it cannot be applied to different subdivisions to make an area equivalent to a quarter section. The manner of proceeding to acquire title with this class of paper is the same as in cash and warrant cases, the fees to be paid being the same as on warrants. The location of this scrip at private entry is restricted to *three* sections in *each township* of land, and *one million acres in any one State.* (15 Stat., 227.)

Second. In payment of pre-emption claims, in the same manner and under the same rules and regulations as govern the application to pre-emptions of military land warrants; this, too, without regard to the limitation as to the quantity located in a township or in any State.

Third. In payment for homesteads commuted under section 2301 of the Revised Statutes of the United States. (Rev. Stat., Sec. 2278.)

THE RIGHT OF PRE-EMPTION.

Pre-emption right is the right of a resident upon public land to the purchase, within a given period, of a limited quanti y thereof, in preference to other applicants, in consideration of prior settlement and improvement.

Heads of families, widows, or single persons over the age of twenty-one, who are citizens of the United States, or who have declared their intention to become citizens, as required by the naturalization laws, may make claim by pre-emption to the extent of one quarter-section, or one hundred and sixty acres of "offered" or "unoffered" lands, or of any of the unsurveyed lands belonging to the United States to which the Indian title is extinguished. (Rev. Stat., Secs. 2257 to 2288.)

A person is not a qualified pre-emptor who has removed from land of his own to reside on public land in *the same* State or Territory, or who is the owner of three hundred and twenty acres of land in *any* State or Territory.

The price of land to a pre-emptor upon "minimum" lands *i. e.*, lands not within the limits of a grant to a railroad or some other work on internal improvement—is one dollar and a quarter per acre. Within the limits of such grant the price is two dollars and a half per acre; but settlers, prior to withdrawal, are allowed to enter at a dollar and a quarter per acre, provided they shall file notice of their claims and make proof and payment as in other cases. (Rev. Stat., Secs. 2257. 2259, 2279, 2281.)

When the tract is "*offered*" land, the party must file with the district land office his declaratory statement as to the fact of his settlement within thirty days from the date of said settlement, and within one year from date of settlement must appear before the register and receiver and make proof of his actual residence on, and cultivation of, the tract, and secure the same by paying *cash*, or locating thereon military bounty land-warrants or agricultural college scrip, according to law; or private claim scrip may now be used, under act of Congress of January 28, 1879. (20 Stat., 274.)

Where the tract has been surveyed and *not offered* at public sale, the claimant must file his declaratory statement within three months from date of settlement, and make proof and payment within thirty months after the expiration of the three months allowed for filing his declaratory notice, or, in other words, within thirty-three months from date of settlement.

When settlements are made on *unsurveyed* lands, no definite proceedings can be had as to the completion of the title until the surveys are extended over the lands and officially returned to the district land office. Within three months after the date of the receipt at the district land office of the approved plat of the township embracing their claims, settlers are required to file their declaratory statements with the register, and within thirty months from the expiration of said three months to make proof and payment for the tract.

A filing without actual settlement is illegal, and no rights are acquired thereby.

The existence of a pre-emption filing on a tract of land does not prevent another filing for the same land, subject to any valid rights acquired by virtue of any former filing and settlement.

Pre emption filings may be relinquished by the claimants, in writing, filed with the register and receiver of the proper district land office, or the relinquishment may be executed by the claimant on the back of the declaratory statement receipt. Notice of such relinquishment should be promptly forwarded by the register to the Commissioner of the General Land Office for his information.

The second filing of a declaratory statement by any pre emptor who was qualified at the date of his first filing is illegal. (Sec. 2261, Rev. Stat., Baldwin *v.* Stark, 107 U. S., 463; also Secretary's decision of February 27, 1884, case of Raymond, 10 Copp, 395.) Where the first filing was illegal from any cause not the willful act of the party, he has the right to make a second and legal filing.

When two or more settlers on unsurveyed land are found upon survey to be residing upon, or to have valuable improvements upon, the same smallest legal subdivision, they may make joint entry of such tract, and separate entries of the residue of their claims. This joint entry may be made in pursuance of contract between the parties, or without it. (Rev. Stat., Sec. 2274.)

A settler desiring to make final proof of having complied with the provisions of the pre-emption law in respect to residence and cultivation, must first file with the register of the proper land office a written notice of his intention to do so

(20 Stat., 472). Such notice must describe the land claimed, and the claimant must give the names and residences of the witnesses by whom the necessary facts as to settlement, residence, cultivation, etc., are to be established.

The filing of such notice must be accompanied by a deposit of sufficient money to pay the cost of publishing the notice to be given by the register.

Upon the filing of the notice by the applicant, the register shall publish a notice that such application has been made, once each week for a period of thirty days, in a newspaper which he shall designate, by an order written on said application, as published nearest the land described in the application, and he shall also post said notice in some conspicuous place in his office for the same period. If published in a weekly paper, a compliance with the law will require the notice to be published six times, as there must be thirty days between the first and last publications.

The notice to be given by the register must state that application to make final proof has been filed; the name of the applicant; the kind of entry, whether homestead or pre-emption; a description of the land, and the names and residences of the witnesses as stated in the application.

To save expense, the register may embrace two or more cases in one publication, when it can be done consistently with the legal requirements of publication, in a newspaper published nearest the land.

When proof is filed that notice has been given in the manner and for the time required by law, the applicant will be entitled to make final proof.

The proof that requisite notice has been given will be the certificate of the register that the notice of the application (a copy of which should be annexed to the certificate) was posted by him in a conspicuous place in his office for a period of thirty days, and the affidavit of the publisher or foreman of the newspaper that the notice (a copy of which notice must be annexed to the affidavit) was published in said newspaper once each week for six successive weeks, or for thirty days in a daily paper, as the case may be.

The proof of the publication and posting of the notice must be filed and preserved by the register, to be forwarded to the General Land Office with the final papers when issued.

In making final proof the pre-emptor should appear in person at the district office, or before the clerk of the county court or of any court of record of the county and State, or district and Territory, in which the land is situated, and make the affidavit prescribed. (Rev. Stat., Sec. 2262; 21 Stat., 169.)

If such affidavit is made before a clerk it must be duly authenticated by the seal of the court and transmitted to the register and receiver, together with the fees and charges allowed by law.

If the land in any case is situated in an unorganized county, such affidavit may be made in the manner indicated, in any adjacent county in the State or Territory. The fact that the county in which the land lies is unorganized, and that the county in which the proof is made is adjacent thereto, must be certified by the officer.

Final proof, in addition to the affidavit, must consist of the testimony of the claimant, corroborated by that of at least two witnesses, taken separately, to the facts constituting his qualifications, and his compliance with law as to settlement, inhabitancy, improvement, non-alienations, etc. (Rev. Stat., Sec. 2263.)

Should a pre-emptor die without establishing his claim within the period limited by law, the title may be perfected by the executor, administrator, or one of the heirs, by making the requisite proof of settlement and paying for the land, the entry to be made in the name of "the heirs" of the deceased settler, and the patent will be issued accordingly. The legal representatives of the deceased pre-emptor are entitled to make the entry at any time within the period during which the pre-emptor would have been entitled to do so had he lived. (Rev. Stat. Sec. 2269.)

The applicant may make the required affidavit before the register and receiver, or before the judge or clerk of any court of record of the county and State, or district and Territory, in which the land is situated; or if that be an unorganized county, he may make such affidavit in a similar manner in any adjacent county in the State or Territory. (21 Stat., 169.)

Any person swearing falsely *forfeits all rights to the land and to the purchase money paid* besides being liable to prosecution under the criminal laws of the United States.

The applicant must in every case state in his application his place of actual residence and his post-office address, in order that notices of contest or other proceedings relative to his entry may be sent him.

Applications to amend filings or entries should be filed with the register and receiver, and be by them transmitted for the consideration of the Commissioner of the General Land Office. Registers and receivers will not change an entry or filing so as to describe another tract, or change a date, after the same has been recorded.

The rights of a pre-emption claimant who has become insane may, under act of June 8, 1880, be proved up, and his claim perfected, by any person duly authorized to act for him during his disability. (21 Stat., 166.)

The party for whose benefit the act shall be invoked must have become insane subsequently to the initiation of his claim.

Claimant must have complied with the law up to the time of becoming insane; and proof of compliance will be required to cover only the period prior to such insanity; but the act will not be construed to cure a failure to comply with the law when the failure occurred prior to such insanity.

The final proof must be made by a party whose authority to act for the insane person during his disability shall be duly certified under seal of the proper probate court.

SUFFERERS FROM GRASSHOPPERS.

The first section of the act of July 1, 1879, "for the relief of settlers on the public lands in districts subject to grasshopper incursions," provided that pre-emption settlers on public lands where crops have been destroyed or seriously injured by grasshoppers may leave and be absent from said lands for a period not to exceed one year continuously under such rules and regulations as the Commissioner of the General Land Office shall prescribe, being allowed afterward to resume and perfect their settlement as though no such absence had occurred. The second section provided that the time for making final proof and payment by pre-emptors whose crops had been destroyed or injured as aforesaid might, at the discretion of the Commissioner, be extended for one year. (21 Stat., 48.)

The proof required in the first section of said act should consist of the affidavit of the claimant, giving the particulars of the alleged destruction or serious injury of crops by grasshoppers, and the affidavits of two or more witnesses corroborative thereof, and should be submitted at time of making final proof through the register and receiver of the proper district land office. The particulars given should be such as to admit of a decision whether the absence was justified by law or not and should indicate at what time the party left the land and when he resumed his settlement.

A settler desiring to take advantage of the provisions of this act should file with the register and receiver a written notice of intended absence, bearing his own signature, and embracing a statement that he had sustained loss or failure of his crops. This should be noted on the tract books, for the protection of the claimant and the information of parties who might otherwise make settlement and attempt to obtain title.

Settlers desiring the extension of time provided for in the second section of the act should apply therefor through the same officers, the application to be supported by the same character of proof.

The affidavits required in cases arising under said act should be made before the register or receiver of the district land office, or before any officer using a seal and authorized to administer oaths.

DROUGHT IN KANSAS AND NEBRASKA IN 1879 OR 1880.

The act of June 4, 1880, "for the relief of certain homestead and pre-emption settlers in Kansas and Nebraska," provided that pre-emption settlers on the public lands, or pre-emption settlers upon Indian reservations, in the States of Kansas and Nebraska west of the sixth principal meridian, where there was a loss or failure of crops from unavoidable cause in the year 1879 or 1880, might leave and be absent from said lands until the first day of October, 1881, under such rules and regulations as to proof and notice as the Commissioner of the

General Land Office might prescribe—such settlers being allowed to resume and perfect their settlements as though no such absence had occurred; and the time for making final proof and payment by such pre-emptors was extended for one year. In cases where the purchase money was by law payable in installments, the first unpaid innstallment was held not to be due until one year after the expiration of the leave of absence aforesaid. (21 Stat., 543.)

The lands to which the provisions of this act applied included all the districts except Topeka and Independence, in Kansas; and all the districts in Nebraska. Land lying east of the one hundreth meridian in any one of these districts does not come within the provisions of this act.

Pending cases will be adjudicated under the original instructions, which were as follows:

The settler desiring to leave his claim under this act should file with the register and receiver of the proper district land office a written notice of his intention to do so, bearing his signature, and embracing a statement that he has sustained a loss or failure of his crops in 1879 or 1880, this being necessary for his own protection, and as notice due parties who might otherwise initiate claims to the land.

At date of final proof by any party who shall have availed himself of this act he must show by satisfactory proof the period of absence, and specific facts making appear the loss or failure of crops from unavoidable cause in 1879 or 1880, on account of which he was entitled to its benefits. The proof should consist of the party's own testimony, corroborated by that of two or more disinterested witnesses.

After a party shall have filed the notice of intended absence under this act, no contest involving his right to the land can be instituted prior to the expiration of the legal term of absence to which he is entitled. If the party should be fraudulently absent, it will be a matter of investigation in the regular manner thereafter. All notices filed will be duly entered on the records of the district office, and reported with the final proof made in the case

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THE HOMESTEAD PRIVILEGE.

The homestead privilege is the right granted to actual settlers upon public lands, under certain restrictions as to actual qualifications, and upon compliance with prescribed conditions as to residence, cultivation, and improvements, to receive a patent for a limited quantity, not exceeding one hundred and sixty acres, without payment except the entry fee required by law.

To obtain a homestead the party must, in connection with his application make an affidavit before the register and receiver that he is over the age of twenty-one or the head of a family; that he is a citizen of the United States, or has declared his intention to become such; and that the entry is made for his exclusive use and benefit, and for actual settlement and cultivation; and must pay the legal fee and that part of the commissions which is payable when the entry is made.

Where a wife has been divorced from or deserted by her husband, so that she is dependent upon her own resources for support, if in fact the head of a family she can make homestead entry as such.

Where the applicant or some member of his family is residing upon, and has made actual settlement on and improvement of the land he desires to enter, but is prevented by reason of bodily infirmity, distance, or other good cause, from personal attendance at the district land office, the affidavit may be made before the clerk of the court for the county within which the land is situated. (Rev. Stat., 2294.)

In such cases the applicant must state in a supplemental affidavit the facts of such settlement, improvement, and residence; what acts of settlement have been performed, and when made; the nature, extent, and value of the improvements; what member or members of his family are residing on the land, and the length of time such residence has been maintained, and the cause, specifically, why the applicant cannot appear at the local office.

A person in active service in the Army or Navy of the United States, whose family or some member thereof is residing on the land which he wishes to enter, and upon which a *bona fide* settlement and improvement has been made by them, may make the affidavit required by law before the officer commanding in the branch of service in which the applicant is engaged. (Rev. Stat., 2293.)

The applicant must in every case state in his application his place of actual residence, and his post-office address, in order that notices of contest or other proceedings relative to his entry may be sent him.

A homestead settler on unsurveyed public land not yet open to entry must

make entry within three months after the filing of the township plat of survey in the district land office. (21 Stat., 140.)

In cases of simultaneous applications to enter the same tract of land under the homestead laws, the rule is as follows:

First. Where neither party has improvements on the land, the right of entry should be awarded to the highest bidder.

Second. Where one has actual settlement and improvement and the other has not, it should be awarded to the actual settler.

Third. Where both allege settlement and improvements, an investigation must be had and the right of entry awarded to the one who shows prior actual settlement and substantial improvements so as to be notice on the ground to any competitor. (Report of General Land Office for 1886, p 19; also case of Halfrich *vs* King, 3 Copp, L. O., p. 164.)

The commissions and fees for homestead entries in Michigan, Wisconsin, Minnesota, Iowa, Missouri, Nebraska, Kansas, Dakota, Alabama, Mississippi, Louisiana, Arkansas, and Florida (also in Ohio, Indiana, and Illinois, if any vacant tracts should be found liable to entry in those States), are as follows: (Rev. Stat., 2238.)

Acres.	Price per acre.	Commissions.		Fees.
		Payable *when entry is made.*	Payable when *certificate* issues.	Payable when entry is made.
160	$2 50	$3 00	$3 00	$10 00
80	2 50	4 00	4 00	5 00
40	2 50	2 00	2 00	5 00
160	1 25	4 00	4 00	10 00
80	1 25	2 00	2 00	5 00
40	1 25	1 00	1 00	5 00

In the States and Territories on the Pacific slope and adjacent thereto—to wit, in California, Oregon, Washington, Idaho, Nevada, Utah, Arizona, New Mexico, Colorado, Wyoming, and Montana—the commissions and fees are fifty per cent. higher. (Rev. Stat., Sec. 2238, paragraph 12.)

On compliance by the party with the foregoing requirements, the receiver will issue his receipt for the fee and that part of the commissions paid, a duplicate of which he will deliver to the party. The matter will then be entered on the records of the district office and reported to the General Land Office.

An inceptive right is vested in the settler by the proceedings hereinbefore described. He must, within six months after making his entry, establish his actual residence, in a house, upon the land, and must reside upon and cultivate the land continuously, in accordance with law, for the term of five years.

At the expiration of that time, or within two years thereafter, upon proper proof to the satisfaction of the land officers, and payment to the receiver of that part of the commissions remaining to be paid, the receiver will issue his receipt therefor, and the register will issue certificate, and make proper returns to the General Land Office as the basis of a patent or complete title to the homestead.

The period of continuous residence and cultivation begins to run at the date of actual settlement, in case the entry at the district land office is made within the prescribed period (three months) thereafter. (21 Stat., 141.)

In grazing districts, stock-raising and dairy production are so nearly akin to agricultural pursuits as to justify the allowance of entry upon proof of permanent settlement and the use of the land for such purposes.

Homestead claimants, equally with pre-emptors, may avail themselves of the provisions of the law extending the time of settlement in regions that have suffered from drought or the devastations of grasshoppers.

Where a homestead claimant was absent under the provisions of these acts, the time of making final proof was not thereby extended (the proviso in respect to extension of time being limited in its application to pre-emptors).

CLIMATIC HINDRANCES.

The proviso annexed to section 2297, Rev. Stats., by amendatory act of March 3, 1881 (21 Stat., 511;) which applies only to homestead settlers, provides that

in case such settler has been prevented by climatic reasons from establishing actual residence upon his homestead within six months from date of entry, the Commissioner of the General Land Office may, in his discretion, allow him twelve months from that date in which to commence his residence.

In such case the settler must, on final proof, file with the register and receiver his affidavit, duly corroborated by two credible witnesses, setting forth in detail the storms, floods, blockades by snow or ice, or other hindrances dependent upon climatic causes which rendered it impossible for him to commence residence within six months. A claimant cannot be allowed twelve months for entry when it can be shown that he might have established his residence on the land at an earlier day; and a failure to show that he exercised proper diligence in so doing as soon as possible after the climatic hindrances disappeared will imperil his entry in case of a contest.

FINAL PROOF.

A settler desiring to make final proof of having complied with the provisions of the homestead law in respect to residence and cultivation, must file with the register of the proper land office a written notice of his intention to do so (20 Stat., 472;) to be followed by publication of the same in some newspaper to be designated by the register—such notice and publication to be substantially in accordance with the directions relative to notice and publication in the case of pre-emption entry.

In making final proof the homestead party should appear in person with at least two witnesses, at the district office, or, under act of March 3, 1877 (19 Stat., 403) before the judge of a court of record of the county and State, or district and Territory, in which the land is situated, and there he and his witnesses must make the affidavits and final proof prescribed.

If such proof is taken before a judge or clerk, it must be duly authenticated by the seal of the court and transmitted to the register and receiver, together with the fee and charges allowed by law. In case of the absence of the judge, the fact of such absence must be certified in the papers by the clerk acting in his place.

As settlers on unsurveyed lands are allowed three months after the filing of the township plat of survey within which to put their claims on record, no final proof on homestead or pre-emption entries should be permitted until after the expiration of said three months.

The rights of a homestead claimant who has become insane may be proved up, and his claim perfected, in the same manner and under the same restrictions as in the case of a pre emption claimant who becomes insane.

Where a homestead settler dies before the consummation of his claim, the widow, or, in case of her death, the heirs, may continue settlement or cultivation, and obtain title upon requisite proof at the proper time. If the widow proves up, title passes to her; if she dies before proving up and the heirs make the proof, the title will vest in them. (Sec. 2291, Rev. Stat.)

When both parents die, leaving infant children, the homestead may be sold for cash for the benefit of such children, and the purchaser will receive title from the United States; or residence and cultivation may continue for the prescribed period, when the patent will issue to the children. (Sec. 2292, Rev. Stat.)

A homestead right cannot be devised away from a widow or minor children.

In case of the death of a person after having entered a homestead, the failure of the widow, children, or devisee of the deceased to take up residence on the land within six months after the entry, or otherwise to fulfill the demands of the letter of the law as to residence, will not necessarily subject the entry to forfeiture on the ground of abandonment. If the land is cultivated in good faith the law will be considered as having been substantially complied with.

CONVERSION OF PRE-EMPTION INTO HOMESTEAD CLAIMS.

A person who has made settlement on a tract and filed his pre-emption declaration therefor, may change his filing into a homestead if he continues in good faith to comply with the pre-emption laws until the change is effected; and the time during which he has resided upon and claimed the land as a pre-emptor will be credited upon the period of residence and cultivation required under the

homestead laws. (20 Stat., 86.) In his first homestead affidavit he must set forth the fact of a previous pre-emption filing, the time of actual residence thereunder, and the intention to claim the benefit of such time, as provided for in the act. In making final proof on his homestead entry he is required, in addition to the usual affidavit and proof, to make the prescribed "pre-emption homestead affidavit."

If a homestead settler does not wish to remain five years on a tract, he may pay for it with cash, or warrants, or agricultural college scrip (Rev. Stat., 2301.) Or, since the passage of the act of January 28, 1879, (20 Stat., 274,) payment may be made with private claim scrip.

To entitle him to the land upon making such payment he must prove actual settlement, improvement, and cultivation from the date of entry to the time of offering proof—which must be a period of not less than six months; the form of proof to correspond with the regular final proof in homestead cases, except that the affidavit must be that prescribed. A person commuting a homestead entry when he has not actually resided upon the land and improved and cultivated it as required by law, *forfeits all right to the land and to the purchase money paid*, and in addition thereto renders himself liable to criminal prosecution.

ACT OF JUNE 15, 1880.

A further right of making cash payment for lands originally entered as a homestead accrues under the act of June 15, 1880, (21 Stat., 237,) which allows any party who had entered a homestead prior to that date (or any person to whom such party may have attempted to transfer his right by a *bona fide* instrument in writing) to pay the government price (less the fee and costs) for the land covered by such entry, provided it was originally subject to entry, and provided it had not been subsequently entered by any other person under the provisions of law. (Maughn, 9 Copp, 56; Miller *ibid.*, 57; Weaver, *ibid.*, 9; Bishop, *ibid.*, 95.) He cannot, however, be permitted to exercise such right so as to bar the preferred right of a contestant under act of May 14, 1880, (21 Stat., 140,) after judgment or forfeiture has become final. (Wright *v.* Pomeroy, December 16, 1883—Copp's Land Owner, vol. 10, p. 324.)

In case the original homestead party applies to purchase, if he has lost his duplicate receipt, he must make oath that he has not, prior to the passage of said act, transferred nor attempted to transfer his homestead rights under said entry, and that he has not assigned his right to receive the re-payment of the fees, commissions, and excess payments paid thereon. The register will certify to the receiver the amount to be allowed as credit for fees and commissions already paid, the applicant first making oath that said fees and commissions have not been repaid, and that no application for such re-payment has been made. In case he had attempted to transfer his right he may still be permitted to purchase, upon filing proof of the consent of the person to whom such transfer was attempted to be made.

In case a party to whom a homestead settler has attempted to transfer his right desires to take advantage of the act, the register and receiver will require the instrument in writing by which it was sought to transfer such homestead right to be filed, together with the best evidence attainable of the *bona fide* character of the transfer, including the affidavit of the party who seeks to purchase.

In case of doubt as to the propriety of allowing the application to purchase, they should refer all the papers to the General Land Office, accompanied by an expression of their opinion based upon a full recital of the facts.

The application must be made as in ordinary cash entry, and must be accompanied by the receiver's duplicate homestead receipt, or, if that has been lost or destroyed, by an affidavit setting forth such fact, and giving the register's and receiver's number and date of the original homestead entry. It must also be stated in the application that the same is made under the second section of the act of June 15, 1880.

Entries under said second section will receive current register's and receiver's numbers in the regular cash series, and will be returned in the same manner as in other cases of cash entry, referring, however, in each instance, on the cash abstracts, certificates, and receipts, to the date of the act authorizing the entry, the register's and receiver's number of the original homestead applica-

tion, and the amount allowed as credit for fees and commissions, as follows: "Act June 15, 1880. Original homestead entry No. —. Credit for fees and commissions, $———."

Final homestead proof not being required in these cases, no advertisement or notice of intention to make final proof is necessary, and no final homestead fees are to be paid or collected.

Warrants and scrip made receivable by law for lands subject to sale at private entry, or in commutation of homestead or pre-emption rights, are receivable for lands purchased under this act.

Where land purchased under this act is paid for with warrants or scrip there would be no claim for re-payment on account of the fee and commissions paid on the original homestead entry; and the existing rule must be observed, that where the value of warrants or scrip exceeds that of the lands entered therewith no re-payment on account of such excess is authorized, but the warrant or scrip applied must be fully surrendered.

The sale of a homestead claim by the settler to another party before completion of title vests no title or equities in the purchaser, and is not recognized by law, except in the peculiar case last referred to, where the attempted transfer took place prior to June 15, 1880. In making final proof, the settler is by law required to swear that no part of the land has been alienated except for church, cemetery, or school purposes, or the right of way of railroad. (Rev. Stat., 2288.)

RELINQUISHMENT.

Homestead claims may be relinquished in the same manner as pre-emption claims. In case of the loss of the duplicate receipt an affidavit of such loss must accompany the written relinquishment.

As the law allows but one homestead privilege, a settler relinquishing or abandoning his claim cannot thereafter make a second entry; although where the entry is canceled as invalid for some reason other than abandonment, and not the willful act of the party, he is not thereby debarred from entering again, if in other respects entitled, and may have the fee and commissions paid on the canceled entry refunded, on proper application under the act of June 16, 1880.

Where a party makes a selection of land for a homestead, he must, as a general rule, abide by his choice. If he has neglected to examine the character of the land prior to entry and it proves to be infertile or otherwise unsatisfactory, he must suffer the consequences of his own neglect.

In some cases, however, where obstacles which could not have been foreseen, and which render it impracticable to cultivate the land, are discovered subsequently to entry (such as the impossibility of obtaining water by digging wells or otherwise), or where, subsequently to entry, and through no fault of the homesteader, the land becomes useless for agricultural purposes (as where by the deposit of "tailings" in the channel of a stream a dam is formed, causing the waters to overflow, the entry may, in the discretion of the Commissioner of the General Land Office, be canceled and a second entry allowed. But in the event of a new entry, the party will be required to show the same compliance with law in connection therewith as though he had not made a previous entry, and must pay the proper fees and commissions upon the same.

Where application is made to contest the validity of a homestead entry on the ground of abandonment, the party must file his affidavit with the district land officers, accompanied by the affidavits of one or more witnesses in support of the allegations made, setting forth the facts on which his application is founded, describing the tract and giving the name of the settler. Upon this the officers will set apart a day for hearing, giving all the parties in interest due notice of the time and place of trial.

In case of inability to make personal service of the notice, and when it becomes necessary to serve it by publication, the act of Congress of June 3, 1878, directs that the same shall "be printed in some newspaper printed in the county where the land in contest lies; and if no newspaper be printed in such county, then in the newspaper printed in the county nearest to such land." After the trial, the land officers will transmit the testimony, with their joint report, for the action of thie General Land Office.

The contestant must defray the expenses incident to such a contest. If he succeeds in the contest, and procures the cancellation of the entry, he will be

notified thereof, and for a period of thirty days from such notice will be allowed a preference right over any other person to institute a claim to the land. (21 Stat., 140.)

ADJOINING FARM HOMESTEADS.

A person possessing the requisite qualifications under the homestead law, owning and residing on land not amounting in quantity to a quarter section, may enter other land lying contiguous to his own to an amount which shall not, with the land already owned by him, exceed in the aggregate one hundred and sixty acres. (Sec. 2289, Rev. Stat.) The party must fulfil the requirements of the homestead law as to residence and cultivation, but will not be required to remove from the land which he originally owned in order to reside upon and cultivate that which he thus acquires under the homestead law, since the whole one hundred and sixty acres are considered as constituting one farm or body of land, residence upon and cultivation of a portion of which is equivalent to residence upon and cultivation of the whole, except that patent for the adjoining homestead will not be issued until five years from date of entry thereof.

ADDITIONAL HOMESTEADS WITHIN LIMITS OF GRANTS TO RAILROADS,

The law originally granting the homestead privilege gave to all citizens, or persons who had declared their intention to become citizens, the right to a homestead on *surveyed* public lands. This amount was limited to one hundred and sixty acres of the ordinary class of public lands, such as were held by law, when disposed of to cash purchasers, at $1.25 per acre; or to eighty acres of the class of lands embraced in alternate sections along the lines of railroads and other works of internal improvement, reserved to the United States in making grants of land in aid of the construction of such work—the price of such reserved lands being increased to $2.50 per acre. (Rev. Stat. Secs. 2289 to 2312.)

The act of March 3, 1879, provided that from and after its passage "the *even* sections within the limits of any grant of public lands to any railroad company, or to any military road company, or to any State in aid of any railroad or military road, shall be open to settlers under the homestead laws to the extent of one hundred and sixty acres to each settler," thus doing away in this class of entries with the distinction which had existed under section 2289 of the Revised Statutes between minimum lands (those held at $1.25 per acre) and double-minimum lands (those held at $2.50 per acre), so far as double-minimum lands might be found in *even* sections within the limits of any railroad or military road. These provisions did not embrace double-minimum lands in *odd* numbered sections, nor within the limits of grants for any description of public works other than railroads and military roads. (20 Stat. 472.)

In some of the States the *even* sections within a certain distance of the line of route were allotted to the land-grant railroads, while the odd sections were reserved to the United States. The act of July 1, 1879, extended the provisions of the act of March 3, 1879, above mentioned to the *odd* (reserved) sections in the States of Arkansas and Missouri. (21 Stat., 46.)

There yet remained certain States (as Alabama and Mississippi) in which (as in Arkansas and Missouri) the land grant railroads had been allotted the *even* sections, while the United States had reserved the *odd* sections—which States were not embraced within the provisions of the act last mentioned. But by the 3d section of the act of June 15, 1880, the *odd* sections within the granted limits of such roads in Alabama and Mississippi (having been brought into market at double-minimum price prior to January 1, 1861) were reduced in price to $1.25 per acre, and homestead settlers were allowed one hundred and sixty acres of such lands. (21 Stat., 237.)

In justice to parties who had already entered lands within the granted limits of land grant railroads, and who had been, by the law as it existed at the date of such entry, restricted to eighty acres, it was further provided that any such person might enter eighty acres additional, adjoining the land embraced in his original entry, if such adjoining lands were subject to entry. (20 Stat., 472; 21 Stat., 46.)

Such additional homestead entry is allowable, even though the original homestead entry had been commuted to a cash entry.

A woman who has married since making the original entry is not thereby disqualified from making an adjoining homestead entry.

In case, however, there should be no land subject to entry adjoining the original homestead, or if for any other reason the homestead party did not desire to select adjoining land, he might surrender his original entry to the Government for cancellation, and be entitled to enter land elsewhere, under the homestead law, the same as if the surrendered entry had never been made.

A person making additional entry of eighty acres, or new entry after surrender and cancellation of his original entry, can do so without payment of further fees and commissions.

The residence and cultivation of such person upon the land embraced in his original entry shall be considered residence and cultivation for the same length of time upon the land embraced in his new entry, and will be deducted from the five years' residence and cultivation required by law; *provided*, that in no case shall a patent issue upon an adjoining or new homestead entry until the person has actually, and in conformity with the homestead laws, resided upon and cultivated the land embraced therein for at least one year.

Where the additional entry, however, consists of land adjoining that originally entered, the homestead party will not be required to remove from the latter to reside upon and cultivate the former, since the two are considered as constituting one farm or body of land. But even in such case, in order to fulfill the requirements of the proviso of the law of March 3, 1879, patent will not be issued for the land entered until at least a year from the date of its entry, no matter how completely the demands of the law may have been complied with regarding the portion of the land constituting the original entry.

In applying for an additional entry the party must make affidavit before the register and receiver, describing the tract upon which he resides as his original farm. He must submit proof setting forth the particulars of his existing entry and of his compliance with legal requirements regarding the same, and must make application and affidavit according to forms prescribed. The proof herein referred to is required in order to ascertain the status of the original entry at the date of application for the additional homestead, and to obtain the credit to which the party may be entitled for residence and cultivation of the original tract.

In case final proof on the original entry has been made and certificate issued, the requirement of proof as above directed may be omitted; and the register and receiver in reporting the case will make a reference to the certificate, giving its number and date.

The preceding requirements having been complied with, the register and receiver, if they find the original entry to be intact upon their records, whether patented or not, will allow the entry applied for, note the same on their records, giving it the proper number in the regular homestead series, and report it with their monthly homestead returns, indicating its character as an additional entry on the margin of their monthly abstracts, with a reference to the original entry by its number and the description of the land.

Should the person choose to surrender his existing entry of eighty acres in order to make entry elsewhere of one hundred and sixty acres, the register and receiver will receive his relinquishment, which shall specify for what purpose made, and be accompanied by the duplicate receipt issued for the relinquished entry, or by a statement under oath showing a good reason for its absence. They will report the case in a special letter to the General Land Office, and await instructions before proceeding further in the matter. The same provisions obtain regarding settlement and cultivation, and the non-payment of fees and commissions, which have already been set forth in connection with adjoining homestead entries.

The act opening the *odd* sections of the public lands to homestead entry to the amount of one hundred and sixty acres to each settler, where the *even* sections had been granted to railroads or military roads, applies only to Arkansas and Missouri. (21 Stat., 46.) Outside of these two States, therefore, where the even sections have been granted to railroads, the odd sections have *not* been opened to homestead entry to an amount exceeding eighty acres, and the provisions regarding adjoining homestead entries do *not* apply, unless such lands were bought into market at double-minimum price prior to January 1, 1861. (21 Stat., 237.)

The applicant for an additional homestead entry must swear that he did not serve in the Army or Navy of the United States for ninety days or more; for

persons who thus served were not restricted to eighty acres under previously existing laws, and consequently are not entitled to the benefits of the acts amending said laws.

SOLDIERS' AND SAILORS' HOMESTEAD RIGHTS.

Any officer, soldier, seaman, or marine who served for not less than ninety days in the Army or Navy of the United States during the rebellion, and who was honorably discharged, and has remained loyal to the Government, is entitled to enter, under the provisions of the homestead law, one hundred and sixty acres of land, "including the alternate reserved sections along the line of *any* railroad or other public work." (Rev. Stat., 2304.)

The time of service or, if the party was discharged from service on account of wounds or disabilities incurred in the line of duty, the whole term of enlistment shall be deducted from the period of five years during which an ordinary claimant must, to perfect title, reside upon, and cultivate the entered tract; but the party must in every case, reside upon, improve, and cultivate his homestead for a period of at least one year after he shall have commenced his improvements. (Rev. Stat., 2305.)

A party applying for the benefit of this provision of the law must file with the register and receiver a certified copy of certificate of discharge, showing when he enlisted and when he was discharged; or the affidavit of two respectable, disinterested witnesses corroborative of the allegations contained in the prescribed affidavit on these points, or if neither can be procured, his own affidavit to that effect.

The filing must be accompanied by the oath of the soldier, stating his residence and post-office address, and setting forth that the claim is made for his exclusive use and benefit, for the purpose of actual settlement and cultivation, and not either directly or indirectly for the use and benefit of any other person; and that he has not, therefore, either made a homestead entry or filed a declaratory statement under the homestead law.

A soldier will be held to have exhausted his homestead right by the filing of his declaratory statement; it being manifest that the right to file is a privilege granted to soldiers in addition to the ordinary privilege only in the matter of giving them power to hold their claims for six months after selection, before entry; but is not a license to abandon such selection with the right thereafter to make a regular homestead entry independently of such filing. Section 2304 provides that "the settler shall be allowed six months, after locating his homestead and filing his declaratory statement, within which to make his entry and commence his settlement and improvement;" and section 2309 requires him "in person" to "make his actual entry, commence settlement and improvement on *the same*, and thereafter fulfill all the requirements of law." These must be done on "the same" land selected and located by the filing.

Following the accepted practice in pre-emption cases, the filing of a declaratory statement will not be held to bar the the admission of filings and entries by others; but any person making entry or claim during the period allowed by law for the entry of the soldier will do so subject to his right; and the soldier's application when offered within such time will be allowed as a matter of right and operate to exclude the intervening claim.

SOLDIERS, WIDOWS, OR MINOR ORPHAN CHILDREN.

The widow, if unmarried—or in case of her death or marriage, the minor orphan children—of any such officer, soldier, sailor, or marine may enter land under the same conditions as might her husband if living; and if he died during his term of enlistment, the widow or minor children shall have the benefit of the whole term of enlistment to be deducted from the time hereinbefore required to perfect title to the land. (Rev. Stat., 2307.)

Minor orphan children can act only by their duly appointed guardians, who must file certified copies of the powers of guardianship, which must be transmitted to the General Land Office by the registers and receivers with their abstracts of soldiers' declaratory statements.

In case of widows, the prescribed evidence of military service of the husband must be furnished, with affidavit of widowdood, giving date of the husband's death.

In case of minor orphan children, in addition to the prescribed evidence of military service of the father, proof of death or re-marriage of the mother must be furnished. Evidence of death may be the testimony of two witnesses, or a physician's certificate duly attested. Evidence of marriage may be certified copy of marriage certificate, or of the record of same, or testimony of two witnesses to the marriage ceremony.

The ruling relative to the widow or minor children of a deceased homestead party as to actual residence is equally applicable to the widow or minor children of a deceased sailor or soldier; if the land is cultivated in good faith the law will be regarded as substantially complied with, although the widow or children may not actually reside upon the land.

SOLDIER'S CLAIM MAY BE FILED BY AN AGENT.

Any such officer, soldier, sailor, or marine may file his claim for a tract of land through an agent, and may have six months thereafter within which to make his actual entry and commence his settlement and improvements upon the land. (Rev. Stat., 2309.)

An *entry* cannot be made for a soldier by an agent or attorney.

In addition to the oath heretofore prescribed, the oath must further declare the name and authority of the agent and the date of the power of attorney or other instrument creating the agency—adding that the name of the agent was inserted therein before its execution. It should also state in terms that the agent has no right or interest, direct or indirect, in filing of such declaratory statement.

The agent must file (in addition to his power of attorney) his own oath to the effect that he has no interest, either present or prospective, direct or indirect, in the claim; that the same is filed for the sole benefit of the soldier, and that no arrangement has been made whereby said agent has been empowered at any future time to sell or relinquish said claim, either as agent or by filing an original relinquishment of the claimant.

The foregoing rule will not be construed to require the rejection of an application to enter the tract filed upon, after the lapse of six months, when climatic reasons are shown, which in case of an actual entry would, under the act of March 3, 1881 (21 Stat., 511), justify an allowance of one year for establishing residence; nor in cases where the failure results from sickness, misfortune, or any insurmountable cause, which shall be properly alleged and satisfactorily shown, and where no adverse right has intervened.

Where such cases has prevented entry and an adverse right has been admitted, it will be held proper within the discretion of the General Land Office to allow an entry upon another tract; *Provided*, That it shall be shown to the full satisfaction of the Commissioner that the default was practically beyond the power of the claimant to avoid.

In case any register and receiver have cause to believe that any filing offered for record is not presented in good faith, they will note such cause upon the same, and if it be sufficient to warrant rejection—such as a want of proper authentication or other palpable defect—they will reject the same, allowing an appeal from their ruling according to the regular practice. Where such cases is not sufficient to warrant an authoritative ruling, they will admit the filing, subject to investigation, and immediately proceed to make proper inquiry into the matter, reporting their action at once to the Commissioner of the General Land Office.

For the filing of a declaratory statement the register and receiver will be allowed to charge, each, a fee of one dollar. This fee the receiver will account for in the usual manner, indicating the same in his account as fees for "homestead declarations," which will be charged against the maximum of $3,000 now allowed by law. In the States and Territories for which fifty per centum additional is allowed, the additional allowance will apply to the fee herein named.

SOLDIER'S ADDITIONAL HOMESTEAD ENTRY.

Any officer, soldier, seaman, or marine who served for not less than ninety days in the Army or Navy of the United States during the rebellion, who had, prior to June 22, 1874, made a homestead entry of less than one hundred and sixty acres, may enter an additional quantity of land adjacent to his former

entry or elsewhere, sufficient to make, with the previous entry, one hundred and sixty acres (Rev. Stat., 2306.)

This right (extended by sec. 2307, Rev. Stat., to the widow, if unmarried, otherwise to the minor orphan children by proper guardian) is a *personal* one, and is not transferable; it is not subject to assignment or lien, nor can it be exercised by another.

The practice which formerly prevailed of certifying the additional right as information from the records of the General Land Office and permitting the entry to be made by an agent or attorney has been discontinued.

The party desiring to make an additional entry, and being entitled thereto, must present himself at the land office of the district in which the land he wishes to enter is situated, and make his application in the same manner as in case of an original entry.

In addition to the usual homestead affidavit the claimant must make a special affidavit showing—

First. His identity as the soldier he represents himself to be, reciting his military service, and stating his present residence and post-office address.

Second. The facts in detail, setting forth his right to make the additional entry, and that he has fully complied with the provisions of the homestead laws in the matter of residence upon, and cultivation and improvement of, his original entry, and stating whether or not he has proved up his claim and received a patent for the land. Proper reference must be made to the original homestead entry, giving the name of the district-office wherein it was made, the date and number of the entry, and the description of the land.

Third. That he has not in any manner previously exercised his additional right either by entry or application, or by sale, transfer, or power of attorney, but that the same remains in him unimpaired.

The foregoing affidavits must be sworn to *and subscribed* in the presence of the register or receiver. This rule must be strictly adhered to in order to avoid false personation; and applications and affidavits presented to the register and receiver with signature attached *will not be received.*

The foregoing rules will not be deemed to apply to cases where the additional entry has heretofore been certified by the General Land Office, nor to cases pending which were filed therein prior to March 16, 1883.

Where the party's first entry has been consummated, the register and receiver will require of him to pay the same fee and commissions as in cases of original entry; the receiver will issue his receipt for the money paid, and these papers will receive the current date and the proper numbers in their homestead series. Then, to complete the transaction—it being an object, for the convenience of business, that the additional entry papers and the final papers therefor, in such cases, shall be kept separate and distinct—the party will make payment of the usual final commissions on the entered tract, for which the receiver will issue his receipt; the register will thereupon issue his final certificate for the additional tract, the receipt and certificate to bear their proper numbers in the final homestead series, likewise a reference to the original entry and to the final certificate thereon by their numbers, and also by their district where the party's first entry shall have been made in a different district.

In case the party has not made proof on his original homestead entry when he applies for additional land, he will be allowed to make the additional entry on proper application, as above stated, and paying the usual fee and commissions, for which the receiver will issue his receipt, the papers to receive their proper numbers in the homestead series, with a reference thereon to the original entry. Thereafter, when the party shall make final proof on the original entry, he will be required to pay the final commissions on both entries, when a final receipt will be issued for the money, and thereupon a final certificate issued to call both for the tract in the original entry and the additional tract. On these papers the register and receiver will make a reference to the original and the additional entry, and on them one patent will issue for both. But where it happens that the original entry and the additional entry are made in different land districts, this rule must be departed from so far as regards the issuing of one final certificate and receipt for both.

PARTIAL WAIVER OF HOMESTEAD RIGHTS.

The election of a qualified party, when filing for a homestead, to take less than the law allows him, is construed as a waiver of his claim for a larger quantity; and the same in case of an adjoining farm entry or soldier's additional entry.

(But when an additional homestead claim was filed for forty acres by a homesteader whose original entry was one hundred and twenty acres, and forty acres of this original entry had been canceled, but notice of the cancellation had not reached him when he filed for the additional forty acres, this was *not* considered a waiver of the full amount, since he filed for all that he supposed was due him.)

The acts of March 3 and July 1, 1879, providing that a person who had taken a homestead to the extent of eighty acres within the granted limits of a railroad grant, on the alternate sections belonging to the Government, might enter an additional contiguous eighty acres, are not construed as allowing a person who elected to take but forty acres under the original homestead law to take an additional one hundred and twenty acres under these amendatory acts.

INDIAN HOMESTEAD CLAIMANTS.

Any Indian posessing the requisite qualifications may, under act of March 3, 1875, take advantage of the provisions of the homestead law, except that he cannot commute it into a cash entry (under section 2301, Rev. Stat.), and that his title is not subject to alienation or incumbrance, either by voluntary conveyance or by the judgment, decree, or order of any court, but remains inalienable for a period of twenty years from date of the patent. (18 Stat., 420; Sec. 5, Act of January 18, 1881—21 Stat., 315)

An Indian desiring to enter public land under this act must make application to the register and receiver of the proper district land office; also an affidavit setting forth the fact of his Indian character; that he was born in the United States; that he is the head of a family or has arrived at the age of twenty-one years; that he has abandoned his tribal relations and adopted the habits and pursuits of civilized life, and this must be corroborated by the affidavits of two or more disinterested witnesses.

If no objection appears, the register and receiver will then permit him to enter the tract desired according to existing regulations, so far as applicable, under the homestead laws, the register writing across the face of the application the words "Indian homestead—act of March 3, 1875;" they will note the entry on their records and make returns thereof to the General Land Office, with the affidavits submitted.

Indian settlers upon the public lands of the United States, whether surveyed or unsurveyed, are entitled, on proper showing, to the benefits and privileges extended by the third section of the act of May 14, 1880. (21 Stat., 140.)

LIMITATION OF LIABILITY FOR DEBT.

All lands acquired under the provisions of the homestead laws are exempt from liability for debt contracted prior to the issuing of patent therefor. (Rev. Stat., 2296.)

DEPOSITS FOR SPECIAL SURVEYS.

When the settlers in any township (the land in which is not mineral or reserved to the Government) desire a government survey made thereof, and file an application therefor, and deposit in any Government depository to the credit of the United States a sum sufficient to pay for such survey, if the township is within the range of the regular progress of the public surveys, the Commissioner of the General Land Office will instruct the Surveyor-General to survey such township. (Sec. 2401, Rev. Stat.) The amount so deposited by settlers may be applied in part payment for their lands. (Sec. 2403, Rev. Stat.)

The certificates issued for such deposits are assignable by indorsement; and while not receivable in payment for land at cash entry, except from the settlers who made the deposit, such certificates will be received in payment from settlers under the pre-emption law, or in commutation of homestead entries (20

Stat., 352); but the act of August 7, 1882, restricts the application of certificates of deposit issued subsequently to its passage to lands situated in the district embracing the township, the surveying of which is to be paid out of such deposit.

PARAMOUNT RIGHT OF AN ACTUAL SETTLER.

According to the principles laid down in decisions by the United States Supreme Court and rulings of this Department, the right of a *bona fide* actual settler under the pre-emption, homestead, or timber culture laws will be recognized as against any other party seeking title to the tract covered by his settlement.

STATES IN WHICH THERE ARE NO DISTRICT LAND OFFICES.

Any vacant tracts of public land in States in which there are no land offices may, under the act of March 3, 1877, (19 Stat., 315,) "be entered at the General Land Office, subject to the provisions of law touching the entry of public lands, and the necessary proofs and affidavits required in such cases may be made before some officer competent to administer oaths, whose official character shall be duly certified by the clerk of a court of record, and moneys received by the Commissioner of the General Land Office for lands entered by cash entry shall be covered into the Treasury." In carrying into effect the provisions of this act the following method will be observed:

A clerk has been designated by the Commissioner to receive and act upon the applications which may be offered for such entries, and to have charge of the correspondence connected therewith. All moneys received go into the charge of the receiving clerk (designated under section 461 of the Revised Statutes,) and any moneys found to belong to the United States on the cases when finally passed upon are turned over to the Treasury according to law.

Applications will be immediately entered in a preliminary abstract for each State in the order in which they are received; will be carefully examined in connection with the plats, files, and records, and admitted or rejected, according to the law and instructions governing the case. From such preliminary abstracts the admitted applications will be carried to a regular monthly abstract, and the proper certificates and receipts will be issued by the Commissioner, acting as *ex officio* register and receiver. The entries thus admitted will be properly posted in the tract-books, and the papers therefor placed on file, for such further action as may be necessary. These entries will be numbered consecutively in continuation of the series entered upon at the respective district offices. The applicants will be promptly advised of the result of the examination, and, where the desired entries are admitted, will be furnished with the appropriate paper, to be held as evidence of title until the delivery of the patents.

In case of conflicting applications, that which is first received will be first acted upon, as above directed, and will be considered as giving the applicant the legal right to the tract applied for, if unexceptionable in other respects.

TIMBER CULTURE.

The first act "to encourage the growth of timber on the western prairies," was passed March 3, 1873 (17 Stat., 605.) It provided that "any person" (not restricting the privilege to heads of families, persons twenty-one years of age, and citizens or those who had declared their intention to become citizens of the United States) might, under that act, make an entry of not more than a quarter-section of the public land for the purpose of the cultivation of timber thereon. The entryman was required to plant, protect and keep in a healthy growing condition, for ten years, forty acres of timber on the quarter-section entered—the trees not to be more than twelve feet apart each way. Final proof could be made at the expiration of ten years from the date of entry, or at any time within three years thereafter, when the party, or in case of his death his heirs or legal representatives, must prove his or their compliance with the law by two credible witnesses.

March 13, 1874 (18 Stat., 21, an act was passed amendatory of, and from its date a substitute for, the act of March 3, 1873. This act restricted the privilege of timber-culture entry to citizens of the United States, or persons who had declared their intention to become citizens, and who were heads of families or had arrived at the age of twenty-one years. Forty acres of timber on the quar-

ter-section—and the like proportion in case less than a quarter-section were entered—were required to be planted (not less than twelve feet apart each way), protected and kept in a growing condition. The party making entry was required to break ten acres of land the first year after the date of the entry, ten acres the second year, and twenty acres the third year; and to plant ten acres of timber the second year, ten acres the third year, and twenty acres the fourth year; or in proportion when the entry was less than a quarter section. Final proof, substantiated by two credible witnesses to the quantity and character of the timber, could be made at the expiration of eight years from the date of entry, or at any time within five years thereafter. Entries made under the act of March 3, 1873, could be completed and final proof made under the act of March 13, 1874, upon compliance with the provisions of the latter act. In case of the death of a person who had complied with the provision of the act for three (3) years the heirs or legal representatives had the option to continue the compliance for the remainder of the eight years and to receive patent accordingly, or to receive patent for forty acres outright by relinquishing all claim to the remainder.

The act of May 20, 1876 (19 Stat., 54), amendatory of the act of 1874, provided that whenever a party holding a claim or making final proof under said act should prove, by two credible witnesses, that the trees planted and growing on said claim were destroyed by grasshoppers during any one or more years, the time allowed in which to plant the trees and make final proof should be extended the same number of years as the trees planted were so destroyed. It also provided that the planting of seeds, nuts, and cuttings, when properly done, and the ground properly prepared and cultivated, should be considered a compliance with the timber-culture act; and that in case the seeds, nuts, or cuttings planted should not germinate and grow, or should be destroyed by the depredations of grasshoppers, or from other unadvoidable accident, the ground should be replanted, or the vacancies filled within one year from the first planting. Parties claiming the benefit of this provision were to prove, by two good and credible witnesses, that the ground was properly prepared and planted, and that the destruction of the seeds, nuts, or cuttings was caused by inevitable accident. Under this act it is not necessary that the planting shall be done in one body, provided the several bodies, not exceeding four in number, aggregate the amount required by the original and amended act.

The act of June 14, 1878, (20 Stat., 113,) is amendatory of the act of March 13, 1874, and, as to all entries made since June 14, 1878, is a substitute for the prior act. It authorizes heads of families or single persons who have attained the age of twenty-one years, who are citizens of the United States or have declared their intention to become such, and who have made no previous entry under the timber culture laws, to make entry of not more than one quarter-section—which may be portions of contiguous subdivisions of the same section, provided that such entry shall form a compact body of land. Not more than one quarter of any section shall be thus entered; and no person shall make more than one entry under this act. The land embraced in this application must be exclusively prairie land, or other land devoid of timber. The removal of a natural growth of timber will not render land subject to entry. (Sellman *v.* Redding, 10 Copp, 275.)

Before allowing any entry applied for, the register and receiver will, by a careful examination of the tract and plat books, satisfy themselves that the entry applied for will not conflict with any other entry or entries previously made. They will require the party making application to file the prescribed affidavit that the entry is made for the cultivation of timber, and for his own exclusive use and benefit, in good faith, and not for the purpose of speculation. If such affidavit is made before a justice of the peace (which the act permits,) his official character and the genuineness of his signature must be certified under seal.

They will require the party to pay the fee and that part of the commission payable at the date of entry, for which the receiver will issue his receipt in duplicate, giving the party a duplicate receipt. The payments required by law on a timber-culture entry are as follows: For eighty acres or less, fee $5, to be paid at date of entry; commissions $4; total $9. For more than eighty acres, fee $10 at date of entry; commissions $4; total $14. Besides, in each case, $4 when final proof is made. No other fee, charge, gratuity, orreward is permitted to be paid or received for any services at district land offices in connec-

tion with such entries. Fees and commissions in this class of entries the receiver will account for in the usual manner, indicating the same as fees and commissions on timber culture entries; and they will be charged against the maximum of $3,000 now allowed by law.

No distinction is made as to area or the amount of fee and commissions between minimum and double-minimum lands. A party may enter 160 acres of either on payment of the prescribed fee and commissions.

The register and receiver will number the entry in its order in a separate series of numbers (unless they have already a series under the act to which this act is amendatory, in which case they will number the entry as one of that series;) they will note the entry on their records and report it in their monthly returns, sending up all the papers therein, with an abstract of the entries allowed during the month under this act.

The law requires that five acres on a quarter section shall be broken or plowed the first year, and five acres the second year. The second year the first five acres must be cultivated to crop or otherwise. The third year the second five acres must be cultivated to crop or otherwise, and the first five acres must be planted in timber, seeds, or cuttings. The fourth year the second five acres must be planted in timber, seeds, or cuttings. Ten acres are thus to be plowed, planted, and cultivated on a quarter-section, and the same proportion when less than a quarter-section is entered. The whole ten acres, or the due proportion thereof, must be prepared and planted within four years from the date of the entry, five acres being prepared the first and second years and planted the third year, and five acres being prepared the second and third years and planted the fourth year. If the trees, seeds, or cuttings are destroyed by grasshoppers or by extreme and unusual droughts, the time of planting may be extended one year for every year of such destruction, upon the filing in the local office of an affidavit by the entryman, corroborated by two witnesses, setting forth the destruction and asking the extension of time provided for by the act.

The following classes of trees are recognized as "timber" within the meaning of the law, viz: Ash (including mountain ash or service-tree), alder, basswood, beech, birch, box elder, black walnut, butternut (otherwise called white walnut), cedar, chestnut, cottonwood, elm, fir, hickory, honey-locust, larch, maple, oak, pine, spruce, sycamore (otherwise called buttonwood or cotton tree), white willow, whitewood (or tulip tree); and other trees recognized in the neighborhood as of value for timber, for firewood or domestic use, or for commercial purposes. Fruit trees and shrubbery cannot be classed as "timber," and their cultivation is not sufficient to satisfy the demands of the law.

Final proof can be made at the expiration of eight years from date of entry, or at any time within five years thereafter. In making final proof it must be shown—

First. That not less than twenty-seven hundred (2,700) trees of the proper character were planted on each acre required to be planted.

Second That the quantity and character of trees as aforesaid have been cultivated and protected for not less than eight years preceding the time of making proof.

Third. That at the time of making proof there are growing at least six hundred and seventy-five (675) living and thrifty trees to each acre.

Perfect good faith must be shown by claimants. If trees, seeds, or cuttings are destroyed, they must be replanted; and not only must trees be planted, but they must be protected and cultivated in such manner as to promote their growth.

All entries since June 14, 1878, are made under the act of that date Parties who made entries under any of the former acts may complete the same and make final proof under the act of 1878, upon showing that they have had under cultivation, for at least eight years, the number of acres required by the act of 1878, and at the time of presenting final proof have the number of living and thrifty trees required thereby; but they need not show that they followed the manner of planting prescribed by the latter act, if the planting was done in accordance with the requirements of any one of the preceding acts.

In computing the period of cultivation the time runs from the date of entry, if the necessary acts of cultivation were performed within the proper time. The preparation of the land and the planting of trees are acts of cultivation, and the time authorized to be so employed, and actually so employed, is to be computed as a part of the eight years of cultivation required by the statute.

In making final proof the claimant (or if he be dead, his heirs or legal representatives) must appear in person, with at least two witnesses, at the land office of the district in which the land is situated, and there make the necessary proofs; or the affidavit of the party may be made, and his testimony, and the testimony of his witnesses, given before a judge or clerk of a court of record in such land district.

The officer administering the oath or taking the testimony must certify to the identity and credibility of the party appearing before him.

The proof must set forth, specifically and in detail, all the facts of the case, showing when cultivation was commenced, the acts performed, amount of land plowed, cultivated, and planted, what was done each year, the total number of trees planted, the total number growing, and their size and condition at date of proof, and any other facts or circumstances material to the case.

The register and receiver will carefully examine the evidence, and, if found sufficient to show that the claimant has fully complied with the law, they will proceed (on payment of the final commissions allowed by law), to issue the final certificate and receipt in the manner prescribed.

If at any time after the filing of said affidavit, and prior to the issue of patent for the land, the claimant shall fail to comply with any of the legal requirements, then, and in that event, such land will be subject to entry under the homestead laws, or by some other person under the provisions of the timber-culture act. But the contestant must file his application to enter, under one or the other of these laws, at the time of initiating contest, or his right to contest will not be recognized by the Government.

When a contestant shall file his application for entry, with the prescribed preliminary affidavit, showing qualifications, etc., the register shall indorse upon such application, the date of its presentation and make the application and the contestant's affidavit setting forth the grounds of contest the basis for further proceedings, these papers to accompany the report submitting the case to the General Land Office Should the contest result in the cancellation of the contested entry, the contestant may then perfect his own.

No land acquired under the provisions of the act of June 14, 1878, will in any event become liable to the satisfaction of any debt or debts contracted prior to the issuing of the final certificate therefor.

RELINQUISHMENTS.

The first section of the act of May 14, 1880, (21 Stat., 140,) provides that when a pre-emption, homestead, or timber-culture claimant shall file a written relinquishment of his claim in the land office, the land covered by such claim shall be held as open to settlement and entry without further action on the part of the Commissioner of the General Land Office.

NON-AGRICULTURAL LANDS.

The foregoing has reference to public lands which are *agricultural* in character. There are special laws for the disposal of lands which are unfit for cultivation and valuable chiefly for *timber* or *stone*, of *saline lands*, and of *desert lands*.

TIMBER AND STONE LANDS.

Surveyed public lands in California, Oregon, Nevada, and Washington Territory, not included within any military, Indian, or other reservation, which are unfit for cultivation, and consequently for disposal under the homestead or pre-emption laws, non-mineral in character, and which have never been offered at public sale, valuable chiefly for the timber upon them or the stone they contain, may be purchased by citizens of the United States, or persons who have declared

their intention to become such, in quantities not exceeding one hundred and sixty acres to any one person or association of persons, at a price of not less than two dollars and fifty cents per acre. (Act of June 3, 1878; 20 Stat. 89.)

A person applying to purchase a tract under the provisions of this act will be required to make affidavit before the register or receiver that he has made no prior application under this act; that he is by birth or naturalization a citizen of the United States, or has declared his intention to become a citizen. If native born, parole evidence to that fact will be sufficient; if not native born, record evidence of the prescribed qualification must be furnished. In addition, the affidavit must designate by legal subdivisions the tract which the applicant desires to purchase, setting forth its character as above; stating that it is uninhabited, and contains no improvements (except for ditch or canal purposes, if any such exist) save such as were made by and belong to the applicant; that he purchases the land for his own exclusive use and benefit and has not made any contract or agreement whereby any title he may acquire thereto shall inure in whole or in part to the benefit of any other person.

The affidavit must be made in duplicate, one copy thereof to be transmitted to the General Land Office by the register and receiver with their monthly returns.

The register will post notice of application, embracing a description of the land by legal subdivisions, in his office, for a period of sixty days; and shall furnish the applicant a copy of said notice, at the expense of the applicant, for the publication in the newspaper published nearest the location of the land for a like period of time; which, in case of a weekly paper, will necessitate a publication in ten successive issues, since at least sixty days must intervene between the first and the last publication.

At the expiration of sixty days the applicant must furnish to the register of the office satisfactory evidence that the notice was duly published as required by law. Such evidence must consist of a copy of the printed notice, and attached thereto the affidavit of the publisher or other person having charge of the newspaper in which the notice was published, setting forth the nature of his connection with the paper, and stating that the notice was duly published for the prescribed period; also giving the dates of the first and last insertions.

The applicant must present before the register and receiver proof showing the character of the land to be such as is contemplated by the law—to wit, that it is non-mineral, unoccupied, unimproved, unfit for cultivation, and valuable mainly for the timber (or stone) thereon. Such evidence must consist of the testimony of at least two disinterested witnesses, to the effect that they know the facts to which they testify from inspection of the land and of each of its smallest legal subdivisions. The testimony may be taken before the register and receiver, or any officer in the district in which the land lies, authorized to administer oaths and using an official seal.

Upon such proof being produced, if no adverse claim shall have been filed, the entry applied for may be allowed in pursuance of the provisions of the act. The receiver will issue his receipt for the purchase money and the register his certificate of purchase, numbering the entry in the regular cash series. The register and receiver will enter the sale on their books, and make the usual returns therefor to the General Land Office, noting on the monthly abstracts opposite the entry, and on the entry papers, a reference to the act of Congress under which allowed. They will forward all the papers in the case with their returns to the General Land Office, except the retained duplicate statement filed under the second section of the act, to which the register will give the same number with the other papers for the entry, and retain it on the appropriate file with the formal application in his office.

The register and receiver will be entitled to a fee of five dollars each for allowing an entry under said act, and jointly at the rate of twenty-two cents and a half per hundred words for testimony reduced by them to writing for claimants, which will be accounted for as other fees.

If, at the expiration of the sixty days' notice provided for, an adverse claim should be found to exist calling for an investigation, the register and receiver will allow the parties a hearing according to the rules of practice.

In case of an association of persons making application for such an entry, each of the persons must prove the requisite qualifications and their names must appear in and be subscribed to the sworn statement as in case of an individual person. They must also unite in the regular application for entry, which

will be made in their joint names as in other cases of joint cash entry. The forms prescribed for cases of application by individual persons may be adapted for use in applications of this class.

SALINE LANDS.

Congress passed an act, January 12, 1877 (19 Stat., 221), providing for the sale of *saline lands* in certain States.

Should *prima facie* evidence that certain tracts are saline in character be filed with the register and receiver of the proper land district, they will designate a time for a hearing at their office, and give notice to all parties in interest, in order that that they may have ample opportunity to be present with their witnesses. Such witnesses will be examined in regard to the extent of the saline deposits upon the given tracts, and whether the same are claimed by any person; if so, the names of the claimants and the extent of their improvements must be shown.

The witnesses should be thoroughly examined as to the true character of the land in other respects; its agricultural capacities; what kind of crops, if any, have been raised thereon, or can be raised from land of such character; whether it contains any valuable deposit of mineral of any kind, or of coal. In short, the testimony should be as complete as possible; and in addition to the points indicated above, everything of importance bearing upon the character of the land should be elicited at the hearing.

The testimony taken at the hearing will be transmitted to the General Land Office by the register and receiver, with their opinion thereon. When the case comes before the General Land Office such a decision will be rendered in regard to the character of the land as the facts may warrant.

Should the tracts be adjudged *saline lands*, the register and receiver will be instructed to offer the same for sale, after public notice, at the local land office of the district in which the same shall be situated, and to sell said tract or tracts to the highest bidder for cash, at a price not less than $1.25 per acre.

In case said lands should not be sold when so offered, they will be subject to private sale for cash, at a price not less than $1.25 per acre, in the same manner as other public lands.

Should the tract in question be adjudged agricultural or mineral, it will be subject to disposal as such.

The provisions of this act do not apply to any land within the Territories, nor to any within the States of Mississippi, Louisiana, Florida, California and Nevada, none of which have had a grant of salines by act of Congress.

DESERT LANDS.

By "desert land" is meant land "which will not, without irrigation, produce some agricultural crop" (section 2 of act of March 3, 1877; 19 Stats., 377.) The expression "*some* agricultural crop" does not refer solely to the amount of the crop; it refers also to the kind. If the land will produce "some" crop of a kind and in amount sufficient to make the cultivation reasonably remunerative, it is not desert. Land along streams, or near bodies of water, which, without artificial irrigation, will produce grass sufficient for hay, is not "desert land" within the meaning of the law, and is not subject to desert entry.

Title to desert lands can be acquired, under the restrictions of the law (see 3d section), only in the States of California, Oregon, and Nevada, and the Territories of Washington, Idaho, Montana, Utah, Arizona, New Mexico, Wyoming, and Dakota.

The amount of land which may be entered by any one person under the desert-land law can not exceed one section, or six hundred and forty acres, which must be in compact form. The requirements of compactness will be held to be complied with on surveyed lands when a section, or part, thereof, is described by legal subdivisions as nearly in the form of a technical section as the situation of

the land and its relations to other lands will admit, although parts of two or more sections may be taken to make up the quantity or equivalent of one section. But entries running along the margin or including both sides of streams, or being continuous merely in sense of lying in a line so as to form a narrow strip, or in any other way showing a gross departure from all reasonable requirements of compactness, will not be admitted. In no case, where the full quantity of six hundred and forty acres is entered, will the side line on either side be permitted to exceed one mile and a quarter; and less in proportion in case the entry embraces less than a one whole section or its equivalent.

A party desiring to avail himself of the privileges of the desert-land act must file with the register and receiver of the proper district land office a declaration under oath, which may be executed before either the register or receiver or the clerk of any court of record having a seal. It must be set forth that the applicant is a citizen of the United States, or that he has declared his intention to become such—in which case a duly certified copy of his declaration of intention to become a citizen must be presented and filed. It must also be set up that the applicant has made no other declaration for desert lands under the provisions of this act, and that he intends to reclaim the tract of land applied for by conducting water thereon, within three years from the date of his declaration. The declaration must also contain a description of the land applied for, by legal subdivisions if surveyed, or if unsurveyed as nearly as possible without a survey by giving, with as much clearness and precision as possible, the locality of the tract with reference to the already established line of survey, or to known and conspicuous landmarks, so as to admit of its being readily identified when the lines of survey come to be extended.

Before the entry can be allowed it must be satisfactorily shown that the land described in the declaration is desert land within the meaning of the law. To this end the testimony of at last two disinterested and credible witnesses is required, which will be reduced to writing in the usual manner; or the evidence may be furnished in the form of affidavits executed before the clerk of any court of record having a seal, the credibility of the witnesses to be certified by said clerk. The witnesses must clearly state their acquaintance with the premises, and the facts as to the condition and situation of the land upon which they base their judgment. Where the land is situated on the borders of a stream or lake, evidence will also be required that the land in its natural state is not productive of hay.

The proof above required having been made to the satisfaction of the district officers, the applicant will pay the receiver the sum of twenty-five cents per acre for the land applied for. The register will receive and file his declaration, and the register and receiver will jointly issue, in duplicate, a certificate acknowledging the receipt of the twenty five cents per acre and the filing of the declaration. One of these duplicates will be delivered to the applicant; the other will be retained by the register and receiver with the declaration and proof. They will bear a number according to the order in which the certificate was issued. The register will keep a record of the certificates issued, showing the number, date, amount paid, name of applicant, and description of the land applied for in each case, and, in addition, he will note the same upon his plats and records as in cases of ordinary entry. At the end of each month he will, with his regular returns, forward to the General Land Office an abstract of the declarations filed and certificates issued under this act during the month, accompanying same with declarations and proofs filed and the retained copy of certificate in each case. The receiver will also account for the money received under this act in the usual form.

In any case where a declaration shall be filed for a tract on unsurveyed land, the register and receiver will immediately forward a copy of the declaration to the surveyor general in order that the proper survey may be made. The claim must remain a "float" until such survey shall have been made, when the applicant shall be required to take his land in form and limits corresponding to the legal subdivision.

At any time within three years after the date of filing the declaration and the issue of certificate, the proper party may make satisfactory proof of having conducted water upon the land applied for in quantity sufficient to accomplish the reclamation of each smallest legal subdivision or portion of forty acres or less. This proof must consist of the testimony of at least two disinterested and credible witnesses, who must appear in person before the register and receiver.

They must declare that they have personal knowledge of the condition of the land applied for, and of the facts to which they testify; and their testimony must be reduced to writing in the usual manner.

The final proof having been made to the satisfaction of the district officers, the party will surrender the duplicate certificate issued when the declaration was filed and make an additional payment of one dollar per acre for the land. For this the receiver will receipt in duplicate, giving the party a duplicate receipt; and the register will issue a final certificate of purchase.

The register and receiver will give to these final certificates and receipts a special series of numbers, and at the end of each month will make separate abstracts of the same, sending up therewith the final certificates, receipts, and proofs.

EXECUTION AND DELIVERY OF PATENTS.

Patents will be executed in the name of the party making an entry or location, except in cases where the statute expressly recognizes the right of an assignee to take patent in his own name. (See departmental decision of July 27, 1880, in case of Whittaker *v.* Sou. Pac. R. R., 7 Copp, 85).

The recitals and description of land in patents will in all cases follow the register's certificate of entry or location, as prescribed by law.

When patents are ready for delivery they will in all cases be transmitted to the local office at which the location or entry was made, where they can be obtained by the party entitled thereto upon surrender of the duplicate receipt, or certificate, as the case may be, unless the duplicate shall have been previously filed in the General Land Office with a request that the patent be delivered as requested by the person sending the same; and in no case will the patent be delivered either from this or the local office except upon receipt of such duplicate, or, in case of its loss from any cause, upon the filing in lieu of the same of an affidavit made by the present *bona fide* owner of the land, a counting for the loss of the same, and also showing ownership of the tracts or a portion thereof embraced in the patent.

REPAYMENTS.

Section 2362 of the Revised Statutes provides for the repayment to the purchaser, or his legal representatives or assignees, of any purchase-money, upon proof "that any tract of land has been erroneously sold by the United States, so that from any cause the sale cannot be confirmed"

Section 2 of the act of June 16, 1880 (21 Stat., 287), enlarges the scope of the former act, saying that "in all cases where homestead, or timber-culture, or desert-land entrees or other entries of public lands have been heretofore or shall hereafter be canceled for conflict, or where, from *any cause*, the entry has been erroneously allowed and cannot be confirmed," the amount of purchase money, fees, and commissions may be repaid.

This cannot be given an interpretation of such latitude as would countenance fraud. If the records of the Land Office, or the proof furnished, should show that the entry ought not to be permitted, and yet it were permitted, then it would be "erroneously allowed." But if a tract of land were subject to entry, and the proofs showed a compliance with law, and the entry should be canceled because the proofs were shown to be false, it could not be held that the entry was "erroneously allowed;" and in such case repayment would not be authorized.

In case of applications for repayment where patent has not issued the duplicate receipt must be surrendered. The applicant must also make affidavit that he has not transferred or otherwise encumbered the title to the land, and that said title has not become a matter of record. This affidavit may be made before either the register or receiver of the district land office, or before a notary public or a justice of the peace, or other officer authorized to administer oaths. When made before a notary public or justice of the peace a certificate of official character is required.

If the duplicate receipt has been lost or destroyed the party applying must advertise the fact of such loss, giving notice of his intention to apply for repay-

ment of the purchase money. This advertisement must be inserted weekly for six weeks in some newspaper of extensive circulation in the vicinity of the land. A copy of the advertisement, with the affidavit of the publisher, or other person having charge of the paper, that it was inserted the requisite number of times, must accompany the papers in the case. Where the duplicate receipt has been lost or destroyed, a certificate will also be required from the proper recording officer showing that the same has not become a matter of record, and that there is no encumbrance of the title to the land thereunder. A like certificate must be furnished when the application is made by another than the original purchaser.

Where a patent has been executed and delivered, it must be surrendered.

Where the title has become a matter of record, and in all cases where patent has issued, a duly executed deed, relinquishing to the United States all right and claim to the land under the entry or patent, must accompany the application. This deed must be duly recorded, and a certificate must also be produced from the proper recording officer where the land is situated, showing that said deed is so recorded, and that the records of his office do not exhibit any other conveyance or encumbrance of the title to the land.

Where a valid title of the land embraced in a canceled entry has been conveyed by the Government to other parties, the applicant for repayment under such canceled entry must reconvey to the United States the title derived from such invalid entry. If, however, the applicant has acquired the valid title already conveyed by the United States, it will not be necessary for him to reconvey the land, but he may make a full statement, with corroborative evidence of the facts, waiving all claim under the invalid entry, and thereupon receive repayment of the amount erroneously paid.

The reconveyance to the United States must conform in every particular to the laws of the State or Territory in which the land is located relative to transfers of real property; in the case of a married man, there must be a release of dower by the wife; and in case of an executor or administrator, due proof of authority to alienate the estate.

Where application is made by heirs, satisfactory proof of heirship is required. This must be the best evidence that can be obtained, and must show that the parties applying are the heirs and the only heirs of the deceased. Where application is made by executors, a certificate of executorship from the probate court must accompany the application. Where application is made by administrators, the original or a certified copy of the letters of administration must be furnished.

The *first* section of the act (of June 16, 1880 now under consideration) provides for the repayment to *innocent parties* of the fees, commissions, and excess payments made upon soldiers' additional homestead entries which were, after location, found to be fraudulent and void, and have therefore been canceled.

Applications for repayment under this section must be accompanied by the duplicate receipt, or evidence of the loss of the same, and by concise statement under oath setting fourth all the facts and circumstances connected with the procurement and use of the fraudulent papers upon which the canceled entries were based, together with such documentary or other proof as may tend to establish the innocence of the parties relative thereto.

In the case of soldiers' additional homestead entries, repayment of fees, commissions, and excesses can be made only to the party who paid the same—not to a party to whom the claimant conveyed the land.

In the case of applications for repayment of fees, commissions, etc., on canceled homestead and other entries, under the *second* section of the act, the duplicate receipt must be surrendered with a relinquishment of all right, title, and claim in and to the land described in the receipt indorsed thereon, attested by two witnesses, and acknowledged before the register and receiver or before any officer authorized to take acknowledgments. If the duplicate receipt has been lost or destroyed an affidavit stating the fact must be furnished, together with a relinquishment of the character indicated. The applicant must make affidavit that he has not made another entry with the credit of the fee and commission paid by him on the canceled entry.

Assignees, within the meaning of the statute now under consideration, are persons who purchase the land after entry and take assignments of the title under such entry. To construe said statutes so as to recognize the assignment or transfer of the mere claim against the United States for repayment of purchase-

money, or fees and commissions, disconnected from a sale of the land or attempted transfer of title thereto, would be against the settled policy of the Government and repugnant to section 3477 of the Revised Statutes, prescribing the manner in which assignment of claims must be made in order that they shall be recognized by the Government as valid.

Where applications are made by assignees, the applicants must show their right to repayment by furnishing properly authenticated abstracts of title, or the original deeds or instruments of assignment, or certified copies thereof, and also show by affidavits or otherwise that they have not been indemnified by their grantors or assignors for the failure of title and that title has not been perfected in them by their grantors through other sources.

Where there has been a conveyance of the land and the original purchaser applies for repayment, he must show that he has indemnified his assignee or perfected the title in him through another source, or produce a full reconveyance to himself from the last grantee or assignee.

The last clause of section 2 of the act under consideration provides that "in all cases where parties have paid double-minimum price for land which has afterward been found not to be within the limits of a railroad land grant, the excess of one dollar and twenty-five cents per acre shall in like manner be repaid to the purchaser thereof, or to the heirs or assigns." In such cases the duplicate receipt must be surrendered; or, if lost or destroyed, an affidavit stating that fact must accompany the application.

All applications for repayment under the above provisions must be made in writing and be signed by the party applying, and must describe the tract or otherwise designate the entry with certainty. They should be transmitted, with all the papers in the case, through the register and receiver of the proper district land office, who will make due report thereon.

APPEALS.

Any person making application to file upon or enter a tract of public land, having complied with the law and regulations touching the presentation of such applications, and feeling aggrieved by the refusal of the register and receiver to recognize his claim, or by any order, direction, or condition affecting the same, may appeal from the action of those officers to the Commissioner of the General Land Office, who is by law invested with the supervision and control of all matters relating to the disposal of the public lands, subject to the direction of the Secretary of the Interior. (Sections 453 and 2478, Rev. Sta.)

For the purpose of enabling such appeal to be taken and perfected, the register and receiver will indorse upon the written application the date when presented and their reasons for refusing it, promptly advising the party in interest of the facts, and noting upon their records a memorandum of the transaction. The party aggrieved will be allowed thirty days from the receipt of notice of such action within which to file his appeal to the Commissioner. When such notice is sent through the mails, five days will be allowed for the transmission of the notice, and other five days for the transmission of the appeal, making forty days in all from the issue of notice in which to place the appeal on file in the district land office. The appeal must be in writing, definitely setting forth in clear and concise terms the specific points of exception to the decision appealed from, and the reason or reasons upon which such exceptions are based. The register and receiver will at once transmit the appeal to the General Land Office. No appeal from the decision of the local land office will be received at the General Land Office unless forwarded through the local officers in the manner herein prescribed.

The appeal should be accompanied by a report upon the case by the register and receiver. This report should recite the proceedings had, to-wit: The application and rejection, with the reasons therefor, the status of the tract involved, as shown by the records of the office, together with a reference to all entries, filings, annotations, memoranda, and correspondence shown by such record relating thereto, so as to direct the attention of the Commissioner to all the material facts and issues necessary to a proper determination of the questions presented.

The report should be forwarded at once upon the filing of the appeal, except in contested cases after regular hearing, when, unless all parties request its earlier

transmission, it should not be made until the expiration of the thirty days included in the notice, in order that all parties may have full opportunity to examine the record and prepare their argument upon the questions at issue

All documents once received must be kept on file with the cases, and no papers will be allowed under any circumstances to be removed from such files or taken from the custody of the register and receiver; but access to the same under proper rules, so as not to interfere with necessary public business, should be permitted to the parties in interest, under the supervision of those officers.

Of the sufficiency of such appeal the General Land Office will be the judge, and will dismiss from further notice any case wherein the appeal is based upon frivolous grounds, or where the proper formalities are wanting, unless, either in the record of the case or upon the books of this office, some sufficient cause shall be found for further consideration under the general power of supervision vested in the Commissioner by law.

Upon any question relating to the disposal of the public lands, appeal from the decision of the Commissioner of the General Land Office will lie to the Secretary of the Interior (Rev. Stat., sections 441, 2273), except in cases of interlocutory orders and decisions and orders for hearing, or other matters resting in the sound discretion of the Commissioner. These cases constitute matters of exception, which should be noted, and they will be considered by the Secretary on review.

The appeal is required to be made in writing, fairly and specifically stating the points of exception to the decision appealed from, and must be filed either with the register and receiver for transmission, or with the Commissioner, within sixty days from receipt, by the party or his attorney, of the notice of the decision. When notice is given through the mail by the register and receiver, five days are allowed for the transmission of the letter from the local land office, and five days for the return of the appeal through the same channel, making a total of seventy days from date of mailing.

After appeal is filed, the fact of its receipt and pendency will be promptly communicated to the district office and to the parties, and thirty days from service of such notice will be allowed for the filing of argument on the points involved in the controversy. At the expiration of the time prescribed the papers and record will be forwarded to the Secretary of the Interior. All arguments shall be filed with the Commissioner within the time specified in the notice in order that they may be referred to and considered in transmitting the case to the Secretary, if deemed expedient by the Commissioner. Examination of cases on appeal to the Secretary will be facilitated by filing in printed form such argument as it is desired to have considered.

Decisions of the Commissioner not appealed from within the period prescribed become final, and the case will be regularly closed. (Rev. Stat., section 2273.)

The decision of the Secretary is necessarily final, so far as respects the action of the Executive.

The minor details of the manner of proceeding in cases of contest before the Commissioner of the General Land Office and the Secretary of the Interior, for the information and guidance more especially of land officers and attorneys, may be found set forth in the official pamphlet of "Rules of Practice."

THE BOARD OF EQUITABLE ADJUDICATION.

The board of equitable adjudication is established and its powers defined by sections 2450 to 2457 of the Revised Statutes, amended by act of February 27, 1877. It consists of the Secretary of the Interior, the Attorney-General, and the Commissioner of the General Land Office, and is authorized to "decide upon principles of equity and justice * * * all cases of suspended entries of public lands * * * and to adjudge in what cases patents shall issue upon the same." The board has no power to adjudicate adverse claims between contesting parties, but only between the United States and claimants, in caseswhere the law has been substantially complied with, but where error or informality has arisen from ignorance, accident, or mistake which is satisfactorily explained.

This board is a tribunal of special and limited jurisdiction, outside of which it has no authority, but inside of which it is exclusive. No appeal lies from its decisions, nor are they subject to review by any other tribunal.

DUTIES OF REGISTERS AND RECEIVERS.

The duties of registers and receivers in many cases connected with the administration of the laws regarding public lands have already been incidentally set forth.

In addition thereto they are to observe the following:

They will be in attendance regularly at their office, keeping the same open for the transaction of business from 9 o'clock a. m. till 4 o clock p. m., and giving all proper information and facilities to persons applying therefor.

They are prohibited from making any charge for their services other than such as are provided for by law. (Sections 2238, 2239, and 2246, Rev. Stat.; 21 Stat., 141; and act of March 3, 1883.)

But the fees allowed them for testimony reduced to writing by them for claimants (paragraphs 10 and 11 of Sec. 2238, Rev Stat.,) and for furnishing plats or diagrams of townships, showing what lands therein are vacant and what are taken, and for furnishing lists of lands sold and remaining unsold, shall not be taken into account in estimating the maximum of compensation. (Act of March 3, 1883.)

Within three days from the close of each month they must make out and transmit to the General Land Office a statement of the business of their respective offices for the preceding month.

These reports are in the form of abstracts of pre-emption declarations and of soldiers' declarations filed, abstracts of lands sold, abstracts of homesteads entered, abstracts of timber-culture entries allowed, abstracts of military bounty land warrants and of agricultural college scrip located, accompanied by the certificates of purchase, receiver's receipts, homestead and timber-culture applications and affidavits, military bounty-land warrants and agricultural college scrip surrendered as satisfied, and the certificates of location thereof; also of all other forms of entry or location requiring separate returns. Names of parties must be clearly and legibly written in these papers to correspond with the signature to every application; and when spelled in two or more ways, or illegibly written by the person signing, the register must ascertain by proper inquiry the correct orthography, and certify to the same upon the margin of the certificate.

The abstracts, after being carefully examined by the register and receiver, are to be certified by them as correct and as in conformity with the papers in the entries or locations embraced therein and with their records, which papers, abstracts, and records must agree with each other.

The receiver is required to render promptly, to the Commissioner of the General Land Office and to the Secretary of the Treasury a monthly account of all moneys received, showing the balance due the Government at the close of each month; and at the end of every *quarter* he must also transmit a quarterly account. (Sec. 2245, Rev. Stat.)

He is required to deposit the moneys received by him at some depository designated by the Secretary of the Treasury, when the amount on hand shall have reached the sum of *one thousand dollars;* and in no case is he authorized, without special instructions, to hold a larger amount in his hands.

SUSPENDED ENTRIES.

RULES AND REGULATIONS.

Under the act of Congress approved August 3, 1846, entitled "An act providing for the adjustment of all suspended pre-emption land claims in the several States and Territories," the following general equitable rules and regulations were established for the government of the Commissioner of the General Land Office.

The Commissioner will recognize as valid, and place in the first class, suspended entries of the following description:

1st. All pre-emption entries in which one or more legal requirements do not appear in the papers because of the neglect or inattention of the land officers, but where the existing testimony shows a substantial and *bona fide* settlement

and improvement of the lands; or where such facts were satisfactorily shown to the local officers, by proof which was lost in transmission to the General Land Office, and cannot now be renewed by reason of the death of witnesses, or other cause.

2d. All pre-emption entries under the Acts of 12th April, 1814, 29th May, 1830, 5th April, 1832, 19th June, 1834, 22d June, 1838, and 1st of June, 1840, which have been allowed in the name of assignees, instead of the pre-emptors themselves, where the claim is *bona fide*, and the assignees or subsequent purchasers are in possession.

3d. All entries in virtue of "floats," under the Acts of 29th of May, 1830, and 19th June, 1834, were the *original settlement* (from which the "float" was derived) was *bona fide*, and had been actually entered, but where such *original settlement* was on land reserved for private claims the survey of which had not been returned at the time of entry; and also all entries by such "floats" on land liable to sale, where the "float" entries had been made prior to the return of the official plat of survey for the original settlement.

4th. Entries allowed by pre emption on "sketch maps" (obtained by the parties), before the return of the regular approved plat of the township embracing the land.

5th. All entries allowed by pre-emption on land which was reserved at the *date* of the *Pre emption Act*, but which was *released* from reservation before the expiration of said act, where such entries are in other respects regular.

6th. Pre-emption entries under laws requiring *actual* residence on public land, in which the residence was found to be on *private* property, but where the tract entered formed a substantial part of the farm of the claimant, and was improved and *cultivated* by him at the period required for residence.

7th. Pre-emption entries of legal subdivisions of a fractional section which contain more than one hundred and sixty acres, but which are as near that quantity as the existing subdivisions will allow.

8th. Pre-emption entries allowed under one pre-emption law, where it shall have been discovered that said entries are invalid under that act, but where the settlement and improvement is of a character to have entitled the parties to a legal and valid claim under a subsequent law, provided the land is not embraced by the valid claim of another.

9th. Pre-emption entries in the mineral region, embracing the half of a quarter section reserved for mineral purposes, where the half-quarter so entered is shown not to have contained mineral; and also entries as "floats," allowed to the claimants, who, by reason of one portion of the quarter-section on which they were settled containing mineral, were unable to enter more than the half of said quarter-section, provided the claim is otherwise a *bona fide* one.

10th. Pre-emption entries founded upon a *bona fide right* of *pre-emption*, where, as it respects the mode and manner of the *entry*, there is not a strict conformity with the law, but where such entry does not embrace a quantity exceeding that allowed by law, is in accordance with the wish of the party or parties interested, and does not interfere with the rights or interests of another.

11th. All private sales of tracts which have not been previously offered at public sale, but where the entry appears to have been permitted by the land officers under the impression that the land was liable to private entry, and there is no reason to presume fraud, or to believe that the purchase was made otherwise than in good faith.

12th. All sales made at one land office of lands which were only liable to sale at another, where the proceedings in all other respects were regular.

13th. All *bona fide* entries on lands which had been once offered, but afterwards temporarily withdrawn from market, and then released from reservation, where such lands are not rightfully claimed by others.

14th. All *bona fide* entries at private sale, allowed at Mineral Point, Wisconsin, and fully paid for, of lands which were not ascertained or reported to contain lead mineral until *after* the date of said entries, where the land is not rightfully claimed by another.

The foregoing regulations are not to embrace any case where the entry has been canceled or desired by the party, or where a subsequent entry of the same land has been legally made by the claimant himself, or by another person.

[Rule 15, having become obsolete, is omitted.]

Under act of Congress, approved 3d of March, 1853, reviving and continuing in force the act of 3d of August, 1846, the following rule was established March 16th, 1854:

16th. That all locations under the act of 14th August, 1848, entitled "An act in relation to military land warrants," be confirmed, and patents issued thereon, where the land located lies in one body, and the only objection to the location is that it consists, technically, of more than one legal subdivision.

ADDITIONAL RULES, MAY 8, 1877.

17. All entries where the pre-emption affidavit was taken before an officer authorized to administer oaths, when, on account of bodily infirmity, the party cannot appear at the local office.

18. All entries where the pre-emption affidavit was taken before some officer other than the register or receiver, and the pre-emptor died before the defect could be cured.

19. All entries made upon land appropriated by entry or selection, but which entry or selection was subsequently canceled for illegality.

20. Pre-emption entries in which the party has shown good faith, but did not, through ignorance of the law, declare his intention to become a citizen of the United States after he made his entry.

21. All entries based upon pre-emption proof where the party had failed to file a declaratory statement therefor, provided no adverse claim attached prior to entry.

22. All entries of unoffered land, based upon a second declaratory statement, where the same was filed between June 22, 1874, and June 30, 1875.

23. All pre-emption entries in which the affidavit is defective in not showing that the party was not the owner of 320 acres of land in any State or Territory, and had never had the benefit of the act, the form for which affidavit was furnished by the local land office.

24. All homestead entries in which, by reason of ignorance of the law, sickness of the party or his family, the final proof was not made within the period prescribed by the statute, but in other respects the law has been complied with.

25. All homestead entries in which the party failed to settle on the land within the time required by law by reason of physical disability, and where good faith is shown.

26. All homestead entries by mistake made in the name of the wrong party, but where on final proof the error may be corrected without prejudice to another's right.

27. In all homestead entries where the husband has deserted his wife and children, if he have any, who have in good faith complied with the homestead law by residence upon and cultivation of the land and final proof shall be made by the wife, or, in case of her death by her heirs or their legal guardians, such entry shall be confirmed, and patent shall issue to the parties entitled thereto.

UNITED STATES LAND OFFICES.

ALABAMA: Huntsville, Montgomery.

ARKANSAS: Little Rock, Camden, Harrison, Dardanelle.

ARIZONA TERRITORY: Prescott, Tucson.

CALIFORNIA: San Francisco, Marysville, Humboldt, Stockton, Visalia, Sacramento, Los Angeles, Shasta, Susanville, Bodie.

COLORADO: Denver City, Leadville, Central City, Pueblo, Del Norte, Lake City, Durango, Gunnison.

DAKOTA TERRITORY: Mitchell, Watertown, Fargo, Yankton, Bismark, Deadwood, Grand Forks, Aberdeen, Huron, Devil's Lake.

FLORIDA: Gainesville.

IDAHO TERRITORY: Boisé City, Lewiston, Oxford, Hailey.

IOWA: Des Moines.

KANSAS: Topeka, Salina, Independence, Wichita, Kirwin, Concordia, Larned, Wa-Keeny, Oberlin, Garden City.

LOUISIANA: New Orleans, Natchitoches.
MICHIGAN: Detroit, East Saginaw, Reed City, Marquette.
MINNESOTA: Taylor's Falls, Saint Cloud, Duluth, Fergus Falls, Worthington, Tracy, Benson, Crookston, Redwood Falls.
MISSISSIPPI: Jackson.
MISSOURI: Boonevill , Ironton, Springfield.
MONTANA TERRITORY: Miles City Helena, Bozeman.
NEBRASKA: Beatrice, Lincoln, Niobrara, Grand Island, North Platte, Bloomington, Neligh, Valentine, McCook.
NEVADA: Carson City, Eureka.
NEW MEXICO: Santa Fé, Las Cruces.
OREGON: Oregon City, Roseberg, Legrand, Lake-view, The Dales.
UTAH TERRITORY: Salt Lake City.
WASHINGTON TERRITORY: Olympia, Vancouver, Walla Walla, Spokane Falls, Yakima.
WISCONSIN: Menasha, Falls of Saint Croix, Wausau, La Crosse, Bayfield, Eau Claire.
WYOMING TERRITORY: Cheyenne, Evanston.

NOTE.—By act of July 31, 1876, the land offices in Ohio, Indiana, and Illinois, were abolished; and by act of March 3, 1877, the vacant tracts of public land in Ohio, Indiana, and Illinois, are made subject to entry and location at the General Land Office, Washington, D. C.

UNITED STATES PATENT OFFICE.

HOW IT PROTECTS INVENTIONS, TRADE MARKS, AND LABELS—ITS DIFFERENCE FROM FOREIGN OFFICES—RULES OF PRACTICE—LIST OF FEES—PRICE OF ITS PUBLICATIONS, ETC.

The great Federal institution known as the Patent Office, in itself a monument to American inventive genius, takes its rise from the power granted to Congress by the Constitution:—

"To promote the progress of science and the useful arts, by securing for limited times to authors and inventors the exclusive right of their respective writings and discoveries." Art. 1, sec. 8, cl. 8.

This was promptly followed by the establishment of the Patent Office in 1790, at first attached to the State Department, and afterwards transferred to the Interior Department, also by the establishment of a copyright system, now under charge of the Librarian of Congress. Patents are granted to foreign inventors on the same terms as to citizens, but copyrights are not. The result is, that while American inventors can obtain patents and collect profits in foreign countries, American authors have no such protection against piracy. At every session of Congress an attempt is made to correct this irregularity.

A patent belongs to the class of what are called "monopolies," which have been granted at all times by governments; anciently, to royal favorites, or, as a means of raising revenue. When they were first used as a means of rewarding invention, no great strictness was applied in European countries in testing the novelty of the invention. As a result, to this day, almost any machine or device can be registered in foreign patent offices, and the question of its novelty or priority is left to be decided afterwards in the courts. The United States, since the year 1836, undertakes to decide in the beginning the questions of novelty and priority, and the result is, that the Patent Office finds need for nearly six hundred skilled employees, many of them holding authority of equal dignity and importance with most judges of courts, and is the arena of constant and elaborate litigation. Questions are decided in the first instance by one of the principal examiners, aided by a number of assistants in his respective "class." From him an appeal lies to a board of three examiners-in-chief; from them (or in some cases directly) to the Commissioner, and from him to the supreme court of the District of Columbia holding a general term. Letters patent granted with this care

become a very strong proof of right, though they are still open to contest when they are sought to be enforced through the courts.

During the fiscal year ending June 30, 1886, no less than 25,619 patents were issued. The revenue of the office reached the enormous sum of $1,200,000, while the annual salaries paid were $656,370. The office now has a balance to its credit in the Treasury of about $3 000,000. The most onerous feature consists in the fees charged to applicants. There would be no objection to a tax upon profitable inventions, such as the telephone, but at present it seems that the requirement of fees in advance ought generously to be remitted, at least to poor inventors, in a similar manner to the grace extended by courts to poor suitors.

Besides being new, the invention is required by law to be "useful." This is construed to mean only that its purpose shall be useful or beneficial to mankind, not that it shall be usable in its existing state. There are several flying machines patented, though none of them have been used; but gambling implements or immoral devices are not patentable.

The relation of the Patent Office to "trade-marks" and to "labels" respectively, is peculiar, and will require an attentive reading of what is here set forth in respect to them.

RULES OF PRACTICE

IN THE

UNITED STATES PATENT OFFICE.

CORRESPONDENCE.

1. All business with the office should be transacted in writing. Unless by the consent of all parties, the action of the office will be based exclusively on the written record. No attention will be paid to any alleged oral promise, stipulation, or understanding, in relation to which there is disagreement or doubt.

2 All office letters must be sent in the name of the "Commissioner of Patents." All letters and other communications intended for the office must be addressed to him; if addressed to any of the officers they will ordinarily be returned.

3. Express charges, freight, postage, and all other charges on matter sent to the patent office must be prepaid in full; otherwise it will not be received.

4. The personal attendance of applicants at the patent office is unnecessary. Their business can be transacted by correspondence.

5. The assignee of the entire interest of an invention is entitled to hold correspondence with the office to the exclusion of the inventor.

6. Where there has been an assignment of an undivided part of an invention, the inventor and the assignee will both be recognized as the proper parties to hold correspondence with the office, and all amendments and other actions in such cases must be signed by both parties; but official letters will be sent in such case to the post-office address of the inventor, unless he shall otherwise direct.

7. When an attorney shall have filed his power of attorney, duly executed, the correspondence will be held with him.

8. A double correspondence with the inventor and an assignee, or with a principal and his attorney, or with two attorneys, cannot generally be allowed.

9. A separate letter should in every case be written in relation to each distinct subject of inquiry or application. Assignments for record, final fees and orders for copies or abstracts must be sent to the office in separate letters.

10. When a letter concerns an application, it should state the name of the applicant, the title of the invention, the serial number of the application (see Rule 31), and the date of filing the same.

11. When the letter concerns a patent, it should state the name of the patentee, the title of the invention, and the number and date of the patent.

12. No attention will be paid to *ex parte* statements or protests of persons concerning pending applications to which they are not parties, unless information of the pendency of such applications shall have been voluntarily communicated by the applicants.

13. Letters received at the office will be answered, and orders for printed copies filled, without unnecessary delay. Telegrams, if not received betore 3 o'clock p. m., cannot ordinarily be answered until the following day.

INFORMATION TO CORRESPONDENTS.

14. The office cannot respond to inquiries as to the novelty of an alleged invention in advance of an application for a patent, nor to inquiries propounded with a view of ascertaining whether any alleged improvements have been patented, and, if so, to whom; nor can it act as an expounder of the patent law, or as counselor for individuals, except as to questions arising within the office.

Of the propriety of making an application for a patent, the inventor must judge for himself. The office is open to him, and its records and models pertaining to all patents granted may be inspected either by himself or by any attorney or expert he may call to his aid, and its reports are widely distributed. (See Rule 216.) Further than this the office can render him no assistance until his case comes regularly before it in the manner prescribed by law. A copy of the rules, with this section marked, sent to the individual making an inquiry of the character referred to, is intended as a respectful answer by the office. Examiners' digests are not open to public inspection.

15. Caveats and pending applications are preserved in secrecy. No information will be given, without authority, respecting the filing by any particular person of a caveat or of an application for a patent or for the re-issue of a patent, the pendency of any particular case before the office, or the subject matter of any particular application, unless it shall be necessary to the proper conduct of business before the office, as provided by Rules 97, 102, and 126. (See Rule 171.)

16. After a patent has isssued, the model, specifications, drawings, and all documents relating to the case are subject to general inspection, and copies, except of the model, will be furnished at the rates specified in Rule 209.

ATTORNEYS.

17. Any person of intelligence and good moral character may appear as the agent or the attorney in fact of an applicant, upon filing a proper power of attorney. As the value of patents depends largely upon the careful preparation of the specifications and claims, the assistance of competent counsel will, in most cases, be of advantage to the applicant; but the value of their services will be proportionate to their skill and honesty, and too much care cannot be exercised in their selection. The office cannot assume responsibility for the acts of attorneys, nor can it assist applicants in making selections. It will, however, be unsafe to trust those who pretend to the possession of any facilities except capacity and diligence for procuring patents in a shorter time or with broader claims than others.

18. Before any attorney, original or associate, will be allowed to inspect papers or take action of any kind his power of attorney must be filed. No power of attorney purporting to have been given to a firm or copartnership will be recognized, either in favor of the firm or of any of its members, unless all its members shall be named in such power of attorney.

19. Substitution or association can be made by an attorney upon the written authorization of his principal; but such authorization will not empower the second agent to appoint a third.

20. Powers of attorney may be revoked at any stage in the proceedings of a case upon application to and approval of the Commissioner; and when so revoked the office will communicate directly with the applicant, or such other attorney as he may appoint. Attorneys will be promptly notified by the examiner in charge of the case, of the revocation of their powers of attorney. An assignment of an undivided interest will not operate as a revocation of the power previously given, but the assignee of the entire interest may be represented by an attorney of his own selection.

21. Parties or their attorneys will be permitted to examine their cases in the attorneys' room, but not in the rooms of the examiners. Personal interviews with examiners will be permitted only as hereinafter provided. (See Rules 147, 148.)

22. Attorneys will be required to conduct their business with the office with decorum and courtesy. Papers presented in violation of this requirement will ordinarily be returned. Complaints against examiners and other officers must be made in separate communications and will be promptly investigated. For gross misconduct the commissioner may refuse to recognize any person as a patent agent, either generally or in any particular case; but the reasons for such refusal will be duly recorded and be subject to the approval of the Secretary of the Interior.

23. Inasmuch as applications cannot be examined out of their regular order, except in accordance with the provisions of Rule 62, and members of congress can neither examine nor act in patent cases without written powers of attorney, applicants are advised not to impose upon senators or representatives labor which will consume their time without any advantageous results.

APPLICANTS.

24. A patent may be obtained by any person who has invented or discovered any new and useful art, machine, manufacture, or composition of matter, or any new and useful improvement thereof, not known or used by others in this country, and not patented or described in any printed publication in this or any foreign country, before his invention or discovery thereof, and not in public use or on sale for more than two years prior to his application, unless the same is proved to have been abandoned; and by any person who, by his own industry, genius, efforts, and expense, has invented and produced any new and original design for a manufacture, bust, statue, alto-relievo, or bas-relief; any new and original design for the printing of woolen, silk, cotton, or other fabrics; any new and original impression, ornament, pattern, print, or picture to be printed, painted, cast, or otherwise placed on or worked into any article of manufacture; or any new, useful, and original shape or configuration of any article of manufacture, the same not having been known nor used by others before his invention or production thereof, nor patented nor described in any printed publication, upon payment of the fees required by law and other due proceedings had. (See Rules 78 to 83.)

25. In case of the death of the inventor, the application may be made by, and the patent will issue to, his executor or administrator. In such case the oath will be made by the executor or administrator.

26. In case of an assignment of the whole interest in the invention, or of the whole interest in the patent to be granted, the patent will, upon request of the applicant, issue to the assignee; and if the assignee hold an undivided part interest, the patent will, upon like request, issue jointly to the inventor and the assignee; but the assignment in either case must first have been entered of record, and at a day not later than the date of the payment of the final fee; and if it be dated subsequently to the execution of the application, it must give the date of execution of the application, or the date of filing, or the serial number, so that there can be no mistake as to the particular invention intended. The application and oath must be made by the actual inventor, if alive, even if the patent is to issue to an assignee. If the inventor be dead, it may be made by the executor or administrator.

27. If it appear that the inventor, at the time of making his application, believed himself to be the first inventor or discoverer, a patent will not be refused on account of the invention and discovery, or any part thereof, having been known or used in any foreign country before his invention or discovery thereof, if it had not been before patented or described in any printed publication.

28. Joint inventors are entitled to a joint patent; neither can claim one separately. Independent inventors of distinct and independent improvements in the same machine cannot obtain a joint patent for their separate inventions; nor does the fact that one furnishes the capital and another makes the invention entitle them to make application as joint inventors; but in such case they may become joint patentees, upon the conditions prescribed in Rule 26.

29. The receipt of letters patent from a foreign government will not prevent the inventor from obtaining a patent in the United States unless the invention shall have been introduced into public use in the United States more than two years prior to the application. But every patent granted for an invention which has been previously patented by the same inventor in a foreign country will be so limited as to expire at the same time with the foreign patent, or, if there be more than one, at the same time with the one having the shortest unexpired term; but in no case will it be in force more than seventeen years.

THE APPLICATION.

30. Applications for letters patent of the United States must be made to the Commissioner of Patents. A complete application comprises the petition, specification, oath, and drawings, and the model or specimen when required (see Rules 28, 48, 55, 57, 61), and first fee of $15. The petition, specification, and oath must be written in the English language.

31. No application for a patent will be placed upon the files for examination until all its parts, except the model or specimen, are received. Every application signed or sworn to in blank, or without actual inspection of the petition

and specification, or altered or partly filled up after being signed or sworn to, will be stricken from the files. Completed applications are numbered in regular order, the present series having been commenced on the 1st of January, 1880. The applicant will be informed of the serial number of his application.

The application must be completed and prepared for examination within two years after the filing of the petition; and in default thereof, or upon failure of the applicant to prosecute the same within two years after any action thereon, of which notice shall have been duly mailed to him or his agent, it will be regarded as abandoned, unless it shall be shown to the satisfaction of the Commissioner that such delay was unavoidable. (See Rules 165—167.)

32. It is desirable that all parts of the complete application be deposited in the Office at the same time, and that all the papers embraced in the application be attached together, otherwise a letter must accompany each part, accurately and clearly connecting it with the other parts of the application. (See Rule 10.)

THE PETITION.

33. The petition must be addressed to the Commissioner of Patents, and state the name and residence of the petitioner, requesting the grant of a patent for the invention therein designated by title, with a reference to the specification for a full disclosure thereof.

THE SPECIFICATION.

34. The specification is a written description of the invention or discovery, and of the manner and process of making, constructing, compounding, and using the same; and is required to be in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which it appertains, or with which it is most nearly connected, to make, construct, compound, and use, the same.

35. The specification must set forth the precise invention for which a patent is solicited, explaining the principle thereof and the best mode in which the applicant has contemplated applying that principle, so as to distinguish it from other inventions.

36. In case of a mere improvement, the specification must particularly point out the parts to which it relates, and must, by explicit language, distinguish between what is old and what is claimed as new, and the description and the drawings, as well as the claims, should be confined to the specific improvement and such parts as necessarily co-operate with it.

37. The specification must conclude with a specific and distinct claim or claims of the part, improvement, or combination which the applicant regards as his invention or discovery.

38. Where there are drawings the description will refer to the different views by figures and to the different parts by letters or figures (preferably the latter).

39. The following order of arrangement should be observed in framing the specification:

(1.) Preamble stating the name and residence of the applicant, and the title of the invention, and, if the invention has been patented in any country, the country or countries in which it has been so patented, and the date and number of each patent

(2.) General statement of the object and nature of the invention.

(3.) Brief description of the several views of the drawings (if the invention admits such illustration).

(4.) Detailed description.

(5.) Claim or claims.

(6.) Signature of inventor.

(7.) Signatures of two witnesses.

40. Two or more independent inventions cannot be claimed in one application, but where several distinct inventions are dependent upon each other and mutually contribute to produce a single result they may be claimed in one application. An application should not ordinarily embrace matters belonging to distinct official classes, nor matters belonging to distinct sub-classes in cases where a contrary practice has heretofore prevailed among applicants.

41 If several inventions, claimed in a single application, be of such a nature that a single patent may not be issued to cover them, the inventor will be re-

quired to limit the description, drawing, and claim of the pending application to whichever invention he may elect. The other inventions may be made the subjects of separate applications, which must conform to the rules applicable to original applications. If the independence of the inventions be clear, such limitation will be made before any action upon the merits; otherwise it may be made at any time before final action thereon, in the discretion of the Examiner.

42. When an applicant makes two or more applications relating to the same subject-matter of invention, all showing, but only one claiming, the same thing, those not claiming it must contain disclaimers thereof, with references to the application claiming it.

43. The specification must be signed by the inventor or by his executor or administrator, and the signature must be attested by two witnesses. Full names must be given, and all names, whether of applicants or witnesses, must be legibly written.

44. The specification and claims and all amendments must be plainly written or printed on but one side of the paper. All interlineations and erasures must be clearly marked in marginal or foot notes written on the same sheet of paper. Legal-cap paper with the lines numbered is deemed preferable, and a wide margin must always be reserved upon the left-hand side of the page, both of the specification and of the amendments.

THE OATH.

45. The applicant, if the inventor, must make oath or affirmation that he does verily believe himself to be the original and first inventor or discoverer of the art, machine, manufacture, composition, or improvement for which he solicits a patent, and that he does not know and does not believe that the same was ever before known or used, and shall state of what country he is a citizen and where he resides. In every original application the applicant must distinctly state, under oath, whether the invention has or has not been patented to himself, or to others with his consent or knowledge, in any country, and if it has been, the country or countries in which it has been so patented, giving the date and number of each patent, and that it has not been patented in any other country or countries than those mentioned, and must state that, according to his knowledge and belief, the same has not been in public use or on sale in the United States for more than two years prior to the application in this country. (See Rule 39.)

46. If the application be made by an executor or administrator, the form of the oath will be correspondingly changed. The oath or affirmation may be made before any person within the United States authorized by law to administer oaths, or, when the applicant resides in a foreign country, before any minister, chargé d'affaires, consul, or commercial agent holding commissions under the Government of the United States, or before any notary public of the foreign country in which the applicant may be, the oath being attested in all cases, in this and other countries, by the proper official seal of the officer before whom the oath or affirmation is made. When the person before whom the oath or affirmation is made is not provided with a seal, his official character shall be established by competent evidence, as by a certificate from a clerk of a court of record or other proper officer having a seal

47. In case the applicant seeks by amendment to introduce any claim not substantially embraced in the statement of invention or claim originally presented, and, therefore, not covered by the original oath, he will be required to file a supplemental oath to the effect that the subject-matter of the proposed amendment was part of his invention and was invented before he filed his original application, and such supplemental oath must be attached to and properly identify the proposed amendment.

48. The applicant for a patent is required by law to furnish a drawing of his invention where the nature of the case admits of it.

49. The drawing must be signed by the inventor or by his attorney in fact, and attested by two witnesses, and must show every feature of the invention covered by the claims, and when the invention consists of an improvement on an old machine, it must exhibit, in one or more views, the invention itself, dis-

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NOTE.—In all applications for letters patent filed subsequent to October 24, 1882, the signature of the applicant is required to the oath.

connected from the old structure, and also, in another view, so much only of the old structure as will suffice to show the connection of the invention therewith.

50. Three several editions of patent drawings are printed and published: one for office use, certified copies, etc., of the size and character of those attached to patents, the work being about 6 by 9½ inches; one reduced to half that scale, or one-fourth the surface, of which four will be printed on a page to illustrate the volumes distributed to the courts; and one reduction—to about the same scale—of a selected portion of each drawing to illustrate the Official Gazette.

This work will all be done by the photolithographic or other analogous process, and therefore the character of each original drawing must be brought as nearly as possible to a uniform standard of excellence, suited to the requirements of the process, and calculated to give the best results, in the interests of inventors, of the office, and of the public generally. The following rules will therefore be rigidly enforced, and any departure from them will be certain to cause delay in the examination of an application for letters patent:

(1.) Drawings must be made upon pure white paper of a thickness corresponding to three-sheet Bristol board. The surface of the paper must be calendered and smooth. India ink alone must be used, to secure perfectly black and solid lines.

(2.) The size of a sheet on which a drawing is made must be exactly 10 by 15 inches. One inch from its edges a single marginal line is to be drawn, leaving the "sight" precisely 8 by 13 inches. Within this margin all work and signatures must be included. One of the shorter sides of the sheet is regarded as its top, and, measuring downward from the marginal line, a space of not less than 1¼ inch is to be left blank for the heading of title, name, number, and date.

(3.) All drawings must be made with the pen only. Every line and letter (signatures included) must be absolutely black. This direction applies to all lines, however fine, to shading, and to lines representing cut surfaces in sectional view. All lines must be clean, sharp, and solid, and they must not be too fine or crowded. Surface shading, when used, should be open. Sectional shading should be made by oblique parallel lines, which may be about one-twentieth of an inch apart.

(4.) Drawings should be made with the fewest lines possible consistent with clearness. By the observance of this rule the effectiveness of the work after reduction will be much increased. Shading (except on sectional views) should be used only on convex and concave surfaces, where it should be used sparingly, and may even there be dispensed with if the drawing is otherwise well executed. The plane upon which a sectional view is taken should be indicated on the general view by a broken or dotted line. Heavy lines on the shade sides of objects should be used, except where they tend to thicken the work and obscure letters of reference. The light is always supposed to come from the upper left-hand corner at an angle of forty-five degrees. Imitations of wood or surface-graining should not be attempted.

(5.) The scale to which a drawing is made ought to be large enough to show the mechanism without crowding, and two or more sheets should be used if one does not give sufficient room to accomplish this end; but the number of sheets must never be increased unless it is absolutely necessary.

(6.) Letters and figures of reference must be carefully formed. They should, if possible, measure at least one eighth of an inch in height, so that they may bear reduction to one-twenty fourth of an inch; and they may be much larger when there is sufficient room. They must be so placed in the close and complex parts of drawings as not to interfere with a thorough comprehension of the same, and therefore should rarely cross or mingle with the lines. When necessarily grouped around a certain part, they should be placed at a little distance, where there is available space, and connected by short broken lines with the parts to which they refer. They must never appear upon shaded surfaces, and, when it is difficult to avoid this, a blank space must be left in the shading where the letter occurs, so that it shall appear perfectly distinct and separate from the work. If the same part of an invention appear in more than one view of the drawing it must always be represented by the same character, and the same character must never be used to designate different parts.

(7.) The signature of the inventor is to be placed at the lower right-hand corner of the sheet, and the signatures of the witnesses at the lower left-hand corner, all within the marginal line. The title is to be written with pencil on the

back of the sheet. The permanent names and title will be supplied subsequently by the office in uniform style.

When views are longer than the width of the sheet, the sheet is to be turned on its side, and the heading will be placed at the right, and the signatures at the left, occupying the same space and position as in the upright views, and being horizontal when the sheet is held in an upright position; and all views on the same sheet must stand in the same direction.

(8.) As a rule, one view only of each invention can be shown in the Gazette illustrations. The selection of that portion of a drawing best calculated to explain the nature of the specific improvement would be facilitated, and the final result improved, by the judicious execution of a figure with express reference to the Gazette, but which might, at the same time, serve as one of the figures referred to in the specification. For this purpose, the figure may be a plan, elevation, section or perspective view, according to the judgment of the draftsman. It must not cover a space exceeding sixteen square inches. All its parts should be especially open and distinct, with very little or no shading, and it must illustrate the invention claimed only, to the exclusion of all other details. When well executed, it will be used without curtailment or change; but any excessive fineness, or crowding, or unnecessary elaborateness of detail, will necessitate its exclusion from the Gazette.

(9.) Drawings should be rolled for transmission to the office, not folded. No agent's or attorney's stamp, or advertisement, or written address will be permitted upon the face of a drawing within or without the marginal line.

51. These rules are modified as to drawings for designs. (See Rules for Designs, 81, 82, 83.)

52. All reissue applications must be accompained by new drawings, of the character required in original applications, and the inventor's name must appear upon the same in all cases of patents granted or assigned since July 8, 1870; and such drawings, if the original application was filed after July 8, 1870, shall be made upon the same scale as the original drawing or upon a larger scale, unless a reduction of scale shall be authorized by the Commissioner.

53. The foregoing rules relating to drawings will be rigidly enforced. Every drawing not artistically executed in conformity thereto may be admitted for purposes of examination if it sufficiently illustrates the invention, but in such cases a new drawing must be furnished before the application can be allowed. The office will make the necessary corrections at the applicant's option and cost.

54. Applicants are advised to employ competent artists to make their drawings. The office will furnish the drawings at cost, as promptly as its draftsmen can make them, for applicants who cannot otherwise conveniently procure them.

No employees of the patent office, except those regularly assigned to such duty, will make any drawings, whether copies or original, for applicants, agents or attorneys.

THE MODEL.

55. Preliminary examinations will not be made for the purpose of determining whether models are required in particular cases. Applications complete in all other respects will be sent to the examining divisions, whether models are or are not furnished. A model will not be required or admitted as a part of the application until, on examination of the case in its regular order, the primary examiner shall find it to be necessary or useful, and shall file a written certificate to that effect, which will constitute an official action in the case. Models not required nor admitted, if already filed, will be returned to the applicants. When a model shall be required the examination will be suspended until it shall be filed. From a decision of the primary examiner overruling a motion to dispense with a model an appeal may be taken to the Commissioner in person, under the provisions of Rule 140.

56. The model must clearly exhibit every feature of the machine which forms the subject of a claim of invention, but should not include other matter than that covered by the actual invention or improvement, unless it is necessary to the exhibition of the invention in a working model.

57. The model must be neatly and substantially made, of durable material, metal being deemed preferable; but when a material forms an essential feature

of the invention, the model will be constructed of that material. The models must not be more than one foot in length, width or height, except in cases in which the Commissioner shall admit working models of complicated machines of larger dimensions. If made of wood, it must be painted or varnished. Glue must not be used; but the parts should be so connected as to resist the action of heat or moisture. Where practicable, to prevent loss, the model or specimen should have the name of the inventor permanently fixed thereon. In cases where models are not made strong and substantial, as here directed, the application will not be examined until a proper model is furnished.

58. A working model is often desirable, in order to enable the office fully and readily to understand the precise operation of the machine.

59. In all cases where an application has been rejected more than two years, the model, unless it is deemed necessary that it should be preserved in the office, may be returned to the applicant upon demand, and at his expense; and the model, in any pending case of less than two years' standing, may be returned to the applicant upon the filing of a formal abandonment of the application, signed by the applicant in person. (See Rule 165.) Models belonging to patented cases will not be taken from the office except in the custody of some sworn employee of the office specially authorized by the Commissioner.

60. Models filed as exhibits, in contested cases, may be returned to the applicant. If not claimed within a reasonable time they may be disposed of, at the discretion of the Commissioner.

SPECIMENS.

61. When the invention or discovery is a composition of matter, the applicant, if required by the Commissioner, shall furnish specimens of the composition, and of its ingredients, sufficient in quantity for the purpose of experiment. In all cases where the article is not perishable, a specimen of the composition claimed, put up in proper form to be preserved by the office, must be furnished.

THE EXAMINATION.

62. All cases in the patent office are classified and taken up for examination in regular order, those in the same class of invention being examined and disposed of, as far as practicable, in the order in which the respective applications are completed; but applications which have received action by an examiner and have been put into condition for further action on his part shall be entitled to precedence over completed applications in the same class of invention which have received no action. When, however, the invention is deemed of peculiar importance to some branch of the public service, and when for that reason the head of some department of the Government specially requests immediate action, the case will be taken up out of its order. These, with cases remanded by an appellate tribunal for further action, statements of grounds of decisions by primary examiners, provided for in Rules 130 and 140, applications for extensions, for reissue, for letters patent for inventions for which foreign patents have already been obtained, and for designs, have precedence over all others in the order enumerated. Action upon such cases in the order indicated will be promptly made by the examiner in charge, to the exclusion of all other business interfering therewith.*

63. The first step in the examination of an application will be to determine whether it is, in all respects, in proper form. If, however, the objections as to form are not vital, the examiner may proceed to the consideration of the application on its merits; but in such case he must, if possible, in his first letter to the applicant, state all his objections, whether formal or otherwise, and until the formal objections are disposed of no further action will be taken upon its merits without the order of the Commissioner.

REJECTIONS AND REFERENCES.

64. Whenever, on examination, any claim of an application is rejected for any reason whatever, the applicant will be notified thereof, and the reason for

* NOTE.—If an application is found to contain patentable subject-matter interfering with a caveat its allowance will be suspended, as hereinafter provided in Rule 196.

such rejection will be fully and precisely stated, and such information and references will be given as may be useful in judging of the propriety of prosecuting his application or of altering his specification; and if, after receiving such notice, he shall persist in his claim, with or without altering his specification, the case will be re-examined. If upon re-examination it shall be again rejected, the reasons therefor will be fully and precisely stated. (See Rule 89.)

65. Upon the rejection of an application for want of novelty, the examiner must cite the best references at his command. If patents be cited, their dates and numbers, the names of the patentees, and the classes of invention must be stated. When the reference shows or describes inventions other than that claimed by the applicant, the particular part relied on will be designated as nearly as practicable. The pertinence of the reference, if not obvious, must be clearly explained and the anticipated claim specified. If printed publications be cited, the title, date, page, or plate, and place of publication, or place where a copy can be found, will be given. When reference is made to facts within the personal knowledge of an employee of the office, the data will be as specific as possible, and the reference must be supported by the affidavit of such employee, which shall be subject to contradiction, explanation, and corroboration by the affidavits of the applicant and other persons. If the patent or other printed matter, plates, or drawings, so referred to, are in the possession of the office, copies will be furnished at cost upon the order of the applicant. (See Rule 171.)

66. Whenever, in the treatment of an *ex parte* application, an adverse decision is made upon any preliminary or intermediate question, without the rejection of any claim, notice thereof, together with the reasons therefor, will be given to the applicant, in order that he may judge of the propriety of the action. If, after receiving such notice, he traverse the propriety of the action, the matter will be reconsidered.

AMENDMENTS AND ACTIONS BY APPLICANTS.

67. The applicant has a right to amend before or after the first rejection; and he may amend as often as the examiner presents any new references or reasons for rejection. In so amending the applicant must clearly point out all of the patentable novelty which he thinks the case presents, in view of the state of the art disclosed by the references cited or objections made. He must also show how the amendments avoid such reference or objections. After appeal, or after such action on all the claims as shall entitle the applicant to an appeal to the board of examiners-in-chief, amendments will not ordinarily be allowed. If such amendments are offered, good and sufficient cause therefor must be shown, together with the reasons why they were not earlier presented; and, if satisfied on these points, the examiner may admit and consider them. If the examiner shall refuse to admit and consider such amendments, an appeal will lie to the Commissioner, as in other cases. No amendment can be made between hearing on appeal and decision; and after decision of any appellate tribunal amendments can be made only in accordance with such decision, except as provided in Rule 137.

68. In order to be entitled to the reconsideration provided for in Rule 66, the applicant must make request therefor in writing, and he must distinctly and specifically point out the supposed errors of the examiner's action. The mere allegation that the examiner has erred will not be received as a proper reason for such reconsideration. This provision does not apply to the case of a demand for re-examination upon the rejection of a claim under Rule 64.

69. In original applications, which are capable of illustration by drawing or model, all amendments of the model, drawings, or specification or of additions thereto must conform to at least one of them as they were at the time of the filing of the application. Matter not found in either involving a departure from the original invention can be shown or claimed only in a separate application. If the invention does not admit of illustration by drawing or model, amendment of the specification is permitted upon proof satisfactory to the Commissioner that the matter covered by the proposed amendment was a part of the original invention; the affidavits prescribed in Rule 47 may or may not be sufficient.

70. The specification must be amended and revised, when required, for the

purpose of correcting inaccuracies of description or unnecessary prolixity, and of securing correspondence between the claim and the other parts of the specification.

71. After the completion of the application the office will not return the specification for any purpose whatever. The model or drawing* (but not both at the same time) may be withdrawn for correction. If applicants have not preserved copies of such papers as they wish to amend, the office will furnish them on the usual terms.

72. All amendments of specifications or claims must be made on sheets of paper separate from the original. Even when the amendment consists in striking out a portion of the specification or of the claims, the same course must be observed Erasures must not be made by the applicant. In every case of amendment the exact word or words to be stricken out or inserted must be clearly specified, and the precise point indicated where the erasure or insertion is to be made. (See Rule 44.)

73. When an amendatory clause is amended it must be wholly rewritten, so that no interlineation or erasure shall appear in the clause, as finally amended, when the case is passed to issue. If the number or nature of the amendments shall render it otherwise difficult to consider the case, or to arrange the papers for printing or copying, the examiner or Commissioner may require the entire specification to be rewritten. (See Rule 44.)

74. When an original or reissue application is rejected on reference to an expired or unexpired domestic patent, which substantially shows or describes but does not claim the rejected invention, or to a foreign patent, or to a printed publication, and the applicant shall make oath to facts showing a completion of the invention before the filing of the application for the domestic patent, or before the date of the foreign patent, or before the date at which the printed publication was made, and shall also make oath that he does not know and does not believe that the invention has been in public use or on sale in this country for more than two years prior to his application, and that he has never abandoned the invention, then the patent or publication cited will not bar the grant of a patent to the applicant, *except upon interference, as provided in Rule* 94.

75. When an application is rejected on reference to an expired or unexpired domestic patent which shows or describes, but does not claim, the rejected invention, or to a foreign patent, or to a printed publication, or to facts within the personal knowledge of an employee of the office, set forth in an affidavit of such employee, or on the ground of public use or sale, or upon a mode or capability of operation attributed to a reference, or because the alleged invention is held to be inoperative, or frivolous, or injurious to public health or morals, affidavits or depositions supporting or traversing these references or objections may be received; but they will be received in no other cases, without special permission of the Commissioner. (See Rule 86.)

76. If an applicant neglect to prosecute his application for two years after the date when the last official notice of any action by the office was mailed to him, the application will be held to be abandoned, as set forth in Rule 165.

77 Applications in interference can be amended only as provided in Rules 104, 124, 125. After notice of allowance of an application for a patent, no amendments will be received, nor will the examiner have any jurisdiction over the application, unless by authority of the Commissioner. Amendments not affecting the merits may be made after allowance and after payment of the final fee, on the recommendation of the primary examiner, approved by the Commissioner, without withdrawing the application from issue. (See Rule 160.)

DESIGNS.

78. A patent for a design may be granted to any person, whether citizen or alien, in the cases specified in Rule 24, upon payment of the duty required by law, and other due proceedings had, as in other cases of inventions or discoveries.

79. Patents for designs are granted for the term of three and one-half years, or for seven years, or for fourteen years, as the applicant may, in his application, elect.

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*NOTE.—Drawings will in no instance be returned to an applicant or his authorized agent unless a model has been filed and accepted by the Examiner as a part of the application.

80. The proceedings in applications for patents for designs are substantially the same as in applications for other patents. The specification must distinctly point out the characteristic features of the design, and carefully distinguish between what is old and what is believed to be new. The claims also, when the design admits of it, should be as distinct and specific as in the case of other patents. The following order of arrangement should be observed, when convenient in framing the specification:

(1.) Preamble showing name and residence of the applicant, title of the design, and the name of the article for which the design has been invented.

(2.) Detailed description of the design as it appears in the drawing or photograph, letters or figures of reference being used.

(3.) Claim or claims.

(4.) Signature of inventor.

(5.) Signature of two witnesses.

81. When the design can be sufficiently represented by drawings or photographs, a model will not be required.

82. Whenever a photograph or an engraving is employed to illustrate the design it must be mounted upon Bristol board, 10 by 15 inches in size, and properly signed and witnessed. The applicant will be required to furnish ten extra copies of such photograph or engraving (not mounted), of a size not exceeding 7½ inches by 11. Negatives are not required.

83. Whenever the design is represented by a drawing made to conform to the rules laid down for drawings of mechanical inventions, but one copy need be furnished. Additional copies will be supplied by the photolithographic process at the expense of the patent office.

REISSUES.

84. A reissue is granted to the original patentee, his legal representatives, or the assignees of the entire interest, when, by reason of a defective or insufficient specification, or by reason of the patentee claiming as his invention or discovery more than he had a right to claim as new, the original patent is inoperative or invalid, provided the error has arisen from inadvertence, accident, or mistake, and without any fraudulent or deceptive intention. In the cases of patents issued and assigned prior to July 8, 1870, the applications for reissue may be made by the assignees; but in the cases of patents issued or assigned since that date, the applications must be made and the specification sworn to by the inventors, if they be living.

85. The petition for a reissue must be accompanied with a certified copy of the abstracts of title, giving the names of all assignees owning any undivided interest in the patent; and in case the application is made by the inventor, it must be accompanied with the written assent of such assignees.

86. Applicants for reissue, in addition to the requirements of Rule 45, must also file with their petitions a statement on oath as follows:

1st. That applicant verily believes the original patent to be inoperative or invalid, and the reason why.

2d. Where it is claimed that such patent is so inoperative or invalid "by reason of a defective or insufficient specification," particularly specifying such defects or insufficiencies.

3d. Where it is claimed that such patent is inoperative or invalid "by reason of the patentee claiming as his own invention or discovery more than he had a right to claim as new," distinctly stating such part or parts so alleged to have been so improperly claimed as new.

4th. Particularly specifying the errors which it is claimed constitute the inadvertence, accident, or mistake relied upon, and how they arose or occurred.

5th. That said errors arose "without any fraudulent or deceptive intention" on the part of the applicant.

87. No new matter shall be introduced into the reissue specification, nor in case of a machine shall the model or drawings be amended except each by the other; but when there is neither model nor drawing, amendments may be made upon proof satisfactory to the Commissioner that such new matter or amendment was a part of the original invention, and was omitted from the specification by inadvertence, accident, or mistake.

88. The Commissioner may, in his discretion, cause several patents to be issued for distinct and separate parts of the thing patented, upon demand of the

applicant, and upon payment of the required fee for each division of such reissued letters patent. Each division of a reissue constitutes the subject of a separate specification descriptive of the part or parts of the invention claimed in such division; and the drawing may represent only such part or parts, subject to the provisions of Rule 49. Unless it shall be otherwise ordered by the Commissioner, all the divisions of a reissue will issue simultaneously; if there be controversy as to one, the others will be withheld from issue until the controversy is ended, unless he shall otherwise order.

89. In cases of application for reissue, an original claim, if reproduced in the amended specification, is subject to re-examination, and the entire application will be revised and restricted in the same manner as original applications.

90. The application for a reissue must be accompanied by a surrender of the original patent, or, if that is lost, by an affidavit to that effect, and a certified copy of the patent; but if a reissue be refused, the original patent will, upon request, be returned to the applicant.

91. Matter which is shown and described, and might have been lawfully claimed, in an unexpired patent, but was not claimed by reason of a defect or insufficiency in the specification, arising from inadvertence, accident, or mistake, and without fraud or deceptive intent, cannot be subsequently claimed by the patentee in a separate patent, but only in a reissue of the original patent.

INTERFERENCES.

92. An interference is a proceeding instituted for the purpose of determining the question of priority of invention between two or more parties claiming substantially the same patentable invention. The fact that one of the parties has already obtained a patent will not prevent an interference; for, although the Commissioner has no power to cancel a patent, he may grant a patent for the same invention to another person who proves to be the prior inventor.

93. Interferences will be declared in the following cases, when all the parties claim substantially the same patentable invention:

(1.) Between two or more original applications.

(2.) Between an original application and an unexpired patent, when the applicant, having been rejected on the patent, shall file an affidavit showing that he made the invention before the patentee's application was filed.

(3.) Between an original application and an application for the reissue of a patent granted during the pendency of such original application.

(4.) Between an original application and a reissue application, when the original applicant shall file an affidavit showing that he made the invention before the patentee's original application was filed.

(5.) Between two or more applications for the reissue of patents granted on applications pending at the same time.

(6.) Between two or more applications for the reissue of patents granted on applications not pending at the same time, when the applicant for reissue of the later patent shall file an affidavit showing that he made the invention before the application on which the earlier patent was granted was filed.

(7.) Between a reissue application and an unexpired patent, if the original applications were pending at the same time, and the reissue applicant shall file an affidavit showing that he made the invention before the original application of the other patentee was filed.

(8.) Between an application for reissue of a later unexpired patent and an earlier unexpired patent granted before the original application of the later patent was filed, if the reissue applicant shall file an affidavit showing that he made the invention before the original application of the earlier patent was filed.

94. No interference will be declared between pending applications, nor between a pending application and an unexpired patent, unless there are conflicting claims; but where an application is involved in an interference in part and shows and describes, without claiming, a patentable invention claimed by another party thereto, the applicant may, at any time *within twenty days after the statements of the parties have been received and approved*, on motion duly made, as provided in Rule 149, file an amendment of his application duly claiming such invention, and on the admission of such amendment the invention shall be included in the interference. Such motion must be accompained by the proposed

amendment, and when in proper form will be transmitted by the examiner of interferences to the primary examiner for his determination. Upon the final determination of such motion the papers and files will be returned to the examiner of interferences, and in case the amendment shall be admitted the primary examiner will re-declare the interference, and prepare and forward to the examiner of interferences new notices of the interference, as provided in Rule 97, and the examiner of interferences will proceed in accordance with Rule 102. The decision of the primary examiner will be binding upon the examiner of interferences, unless reversed or modified upon appeal, as provided in Rule 118.

95. Before the declaration of interference all preliminary questions must be settled by the primary examiner, and the issue must be clearly defined; the invention which is to form the subject of the controversy must be decided to be patentable, and the claims of the respective parties must be put in such condition that they will not require alteration after the interference shall have been fully decided, unless the testimony adduced upon the trial shall necessitate or justify such change.

96 Where, however, a party who is required to put his case in a condition proper for an interference fails to do so within a reasonable time specified, the declaration of interference will not be delayed. After final judgment of priority the application of such party will be held for revision and restriction, subject to interferences with other applications or new references. (See Rule 93.)

97. When an interference is found to exist and the applications are prepared therefor, the primary examiner will forward to the examiner of interferences, *together with the files and drawings* notices of interference for all the parties, as specified in Rule 102, which will disclose the name and address of each party, and the name of his attorney, *and if any party, as such, be a patentee, the date and number of the patent*, and the date of its application, the ordinals of conflicting claims, and the invention claimed, which shall be clearly and concisely defined, in so many counts or branches as may be necessary in order to include all interfering claims. *Whenever it shall be found that two or more parties whose interests are in conflict are represented by the same attorney, the examiner in charge will notify each of said principal parties, and also the attorney, of this fact.*

98. Upon receipt of the notice of interference, the examiner of interferences will make an examination thereof, in order to ascertain whether the issue between the parties has been clearly defined, and whether it is otherwise correct. If he be of the opinion, upon such examination, that the notices are ambiguous in this particular, or are imperfect in any material point, he will transmit his objections to the primary examiner, who will promptly notify him of his decision to amend or not to amend them.

99. In case of a material disagreement between the examiner of interferences and the primary examiner, they shall refer the points of difference to the Commissioner for decision.

100. The primary examiner will retain jurisdiction of the case until the declaration of interference is made.

101. When the notices of interference have been settled, the examiner of interferences will add thereto a designation of the time within which the statements required by Rule 105 must be filed, and will, *pro forma*, institute and declare the interference by forwarding the notices to the several parties to the interference.

102. Notices of interference will be forwarded by the examiner of interferences to all the parties, or to their attorneys, or, in case the application or patent in interference has been assigned, to the assignees. When one of the parties has received a patent, a notice will be sent to the patentee and to his attorney of record. When one of the parties resides abroad and has no known agent in the United States, notice in addition to that sent by mail, may be given by publication in the OFFICIAL GAZETTE for such period of time as the Commissioner may direct.

103. Upon the institution and declaration of the interference, as provided in Rule 101, the examiner of interferences will take jurisdiction of the same, which will then become a contested case; but the primary examiner will determine the motions mentioned in Rule 116, as therein provided.

104 An applicant involved in an interference may, *with the written consent of the assignee, when there has been an assignment*, before the date fixed for the

filing of his statement, (see Rule 105,) in order to avoid the continuance of the interference, disclaim under his own signature, attested by two witnesses, the invention of the particular matter in issue, and upon such disclaimer and the cancellation of any claims involving such interfering matter, judgment shall be rendered against him, and the disclaimer shall be embodied in and form part of his specification. (See Rules 187, 188.)

105. Each party to the interference will be required to file a conc'se statement, under oath, showing the date of his original conception of the invention, *of the making of a drawing, of the making of a model,* of its disclosure to others, of its *reduction to practice,* and of the extent of its use. The parties will be strictly held in their proof to the dates set up in their statements. The statement must be sealed up before filing, (to be opened only by the examiner of interferences,) and the name of the party filing it, the title of the case, and the subject of the invention indicated on the envelope. The statements shall not be opened to the inspection of the opposing parties until both shall have been filed, or the time for filing both with any extension thereof shall have expired, nor then unless they have been examined by the proper officer and found to be satisfactory. *When the invention was made abroad, the statement should set forth when and where, if ever, the invention was patented, (giving the date and number of the patent.) and when, if ever, it was described in a printed publication, (giving the title, date, and place of publication,) and when, if ever, it was introduced, or knowledge of it was introduced, into this country, (giving the circumstances which are thought to establish the facts thereof.)*

106. If, on such examination, a statement is found to be defective in any particular, the party shall be notified of the defect, and a time assigned within which he must cure such defect by an amended statement; but in no case will any original or amended statement be returned after it has been once filed. *If a party shall refuse to file the amended statement herein referred to, he will be restricted to his record date in the further proceedings in the case.*

107. If the *junior* party to an interference fail to file a statement, or if *his* statement fail to overcome the *prima facie* case made by the respective dates of application, the other may demand an immediate adjudication of the case upon the record. Where there are more than two parties to the interference, and any one of them fails to file his statement, judgment may be rendered upon the record as to *the party failing to file his statement, unless he be the senior party, and the interference will proceed between the remaining parties.*

108. If any party to an interference fail to file a statement, no testimony will subsequently be received from him to prove that he made the invention at a date prior to his application. The statement can in no case be used as evidence in behalf of the party making it.

109. If either party require a postponement of the time for filing the statements, he will present his motion duly served on the other parties, with his reasons therefor, supported by affidavit, prior to the day previously fixed upon. But the examiner of interferences may, in his discretion, dispense with service of notice of such motion.

110. In case of material error in the statement, arising through inadvertence or mistake, it may be corrected on motion (see Rule 149), upon showing to the satisfaction of the Commissioner that its correction is essential to the ends of justice. The motion to correct the statement must be made, if possible, before the taking of any testimony, and as soon as practicable after the discovery of the error.

111. In original proceedings in cases of interference the several parties will be presumed to have made the invention in the chronological order in which they filed their completed applications for patents clearly illustrating and describing the invention; and the burden of proof will rest upon those who shall seek to establish a different state of facts.

112. A time will be assigned in which the junior applicant shall complete his testimony in chief, and a further time in which the other party shall complete the testimony on his side, and a further time in which the junior applicant may take rebutting testimony, but shall take no other. If there be more than two parties, either patentees or applicants, the times for taking testimony will be so arranged that each shall have an opportunity to prove his case against prior applicants and to rebut their evidence, and also to meet the evidence of junior applicants.

113. If either party fail to take his testimony within the time assigned to him,

all junior applicants having duly taken theirs, the case may, on motion duly made and served on such party, be set for hearing at any time not less than ten days after the hearing of the motion.

114 If either party desire to have the hearing postponed, he will make application for such postponement by motion (see Rule 149), and will show sufficient reason therefor by affidavit.

115. If either party desire an enlargement of the time assigned to him for taking testimony; he will make application therefor as provided for in Rule 150 (5).

116. Motions to dissolve an interference upon the ground that no interference in fact exists, or that there has been such irregularity in declaring the same as will preclude a proper determination of the question of priority between the parties, or which deny the patentability of an applicant's claim, or his right to make the claim, should, if possible, be made within twenty days after the statements of the parties have been received and approved. Such motions, when in proper form, will be transmitted by the examiner of interferences, with the files and papers, to the *proper* primary examiner for *his* determination, and he will return the files and papers to the examiner of interferences, with his decision, at the expiration of the time limited for appeal if no appeal shall have been taken, or sooner if the party entitled to appeal shall file a waiver in writing of his right of appeal, and such decision will be binding on the examiner of interferences unless reversed or modified on appeal. (See Rule 118.)

117. All lawful motions, except those mentioned in Rule 116, will be made before and determined by the tribunal having jurisdiction at the time. The filings of motions will not operate as a stay of proceedings in any case. To effect this, motion should be made before the tribunal having jurisdiction of the interference, which will, sufficient grounds appearing therefor, order a suspension of the interference pending the determination of such motion.

118. An appeal may be taken directly to the Commissioner from decisions on all motions, except motions to dissolve interference denying the patentability of applicants' claims, or their right to make the claims, and other lawful motions, involving the merits of the case, which, when appealable, may be appealed to the board of examiners in-chief. From a decision affirming the patentability of the claim or the applicant's right to make the same no appeal can be taken

119. After the interference is finally declared, it will not, except as herein otherwise provided, be determined without judgment of priority found *either* upon the testimony, or upon a written concession of priority by one of the parties, signed by the inventor himself, and also, in the case of an assignment, by the assignee, *or upon a written declaration of abandonment of his application, as provided by Rule* 165.

120 In their decision of the question of priority, or before such decision, the examiner of interferences and the examiners-in-chief will direct the attention of the Commissioner to any matter not relating to priority which may have come to their notice, and which, in their opinion, establishes the fact that no interference exists, or that there has been irregularity in declaring the same (Rule 116), or which amounts to a statutory bar to the grant of a patent to either of the parties for the claim or claims in interference. The Commissioner may, before judgment on the question of priority of invention, suspend the interference and remand the case to the primary examiner for his consideration of the matters to which attention has been directed, and his decision will be subject to appeal, as in other cases. If the case shall not be so remanded, the primary examiner will, after judgment, consider any matter affecting the rights of either party to a patent which may have been called to his attention, unless the same shall have been previously disposed of by the Commissioner.

121. A second interference will not be declared upon a new application on the same invention filed by either party, nor will a decision be set aside after judgment, except in accordance with the principles governing the granting of new trials.

122. If at any time during the pendency of an interference the primary examiner discover new references, he may request a suspension of the interference for their consideration *ex parte* until their pertinency shall be determined, when the files and papers will be returned to the examiner of interferences and the interference dissolved or reinstated in accordance with such determination.

123. The primary examiner may request a suspension of an interference for

the pu pose of a lding new parties; but no new parties will be added after the taking of testimony with ut the special order of the Commissi ner.

124. No amendments to the specification will be received during the pendency of an interference, except as provi ed in Rules 94, 104, 125.

125. When a part only of the claims of an application are involved in an interference, the applicant may withdraw from his application the claims adjudged not to interfere, and file a new application there for, if the application can be legitimately divided, and if no more of the devices claimed in one is shown or described in the other than is necessary to an intelligent understanding of the invention claimed in the latter: *Provided*, That no claim shall be made in the second application broad enough to include matter claimed in the first application as amended. (See Rule 42.)

126. When applications are declared to be in interference, the interfering parties will be permitted to see or obtain copies of the interfering claims, and of so much of the specifications as relate ther to, after the statements referred to in Rule 105 have been received and approved; but no information of an application will be furnished by the Office to an opp sing party, except as provided in Rules 97 and 102, until after the approval of such statement.

127. When it shall appear, on motion duly made, and upon satisfactory proof, that, by reason of the inability or refusal of the inventor to prosecute or defend an interference, or from other cause, the ends of justice shall require that an assignee of an undivided interest in the invention be permitted to prosecute or defend the same, the Commissioner may so order.

APPEALS.

128. Every applicant for a patent or the reissue of a patent, any of the claims of whose application have been twice rejected upon grounds involving the merits of the invention, such as lack of novelty or utility, abandonment, public use, or want of identity of invention, either in amended or reissue applications, may appeal from the decision of the primary examiner to the board of examiners-in-chief, having once paid a fee of ten dollars The appeal must be made in writing, signed by the party, or his duly authorized agent or attorney, setting forth the points of the decision upon which the appeal is taken and duly filed.

129. There must be two rejections of the claims as originally filed, or, if amended in matter of substance, of the amended claims, and all the claims must be passed upon, and all preliminary and intermediate questions relating to matters not affecting the merits of the invention settled, before the case is appealed to the examiners-in-chief.

130. Upon the filing of the appeal the same shall be submitted to the primary examiner, who, if he find the appeal to be regular in form, shall furnish the examiners-in chief with a written statement of the grounds of his decision on all the points involved in the appeal, with copies of the rejected claims, and with the references applicable thereto. If the primary examiner shall decide that the appeal is not regular in form, an appeal from such decisions may be taken directly to the Commissioner, as provided in Rule 140.

131. The appellant shall, before the day of hearing, file a brief of the authorities and arguments on which he will rely to maintain his appeal.

132. If the appellant desire to be heard orally before the examiners-in-chief, he will so indicate when he files his appeal; a day of hearing will then be fixed, and due notice of the same given to him.

133. In contested cases the appellant shall have the right to make the opening and closing arguments unless it shall be otherwise ordered by the tribunal having jurisdiction of the case.

134. The examiners-in-chief in their decision will affirm or reverse the decision of the primary examiner only on the points on which appeal shall have been taken. (See Rule 128.) If they shall discover any apparent grounds not involved in the appeal for granting or refusing letters patent in the form claimed, or in any other form, they will annex to their decision a statement to that effect, with such recommendation as they shall deem proper.

From any judgment of the primary examiner, on points embraced in the recommendation annexed to the decision adverse to the appellant, appeal may be taken on questions involving the merits to the board of examiners in-chief and on other questions to the Commissioner as in other cases

If an appeal shall be taken from the decision of the examiners-in-chief to the

Commissioner, the Commissioner, whenever, in his opinion, substantial justice shall require it, may, either before or after final judgment, remand the case to the primary examiner for consideration of any amendment or action based upon the recommendation annexed to the decision of the examiners-in-chief.

If the Commissioner, in revising the decision of the examiners-in-chief, shall discover any apparent grounds for granting or refusing letters patent not involved in the appeal, he will, before or after final judgment, whenever, in his opinion, substantial justice shall require it, give reasonable notice thereof to the parties; and if any amendment or action based thereon shall be proposed, he will remand the case to the primary examiner for consideration.

From decisions of the primary examiner, in cases remanded, as herein provided, appeal will lie to the board of examiners-in-chief, or directly to the Commissioner, as in other cases.

135. If affidavits be received, under Rule 75 or 86, after the case has been appealed, the application will be remanded to the primary examiner for reconsideration.

136. From the adverse decision of the board of examiners in-chief appeal may be taken to the Commissioner in person, upon payment of the fee of twenty dollars required by law.

137. Cases which have been heard and decided by the Commissioner on appeal will not be reopened except by the Commissioner; cases which have been decided by the examiners in chief will not be reheard by them, when no longer pending before them, without the written authority of the Commissioner; and cases which have been decided by either the Commissioner or the examiners-in-chief will not be reopened by the primary examiner without like authority, and then only for the consideration of matters not already adjudicated upon, sufficient cause being shown. (See Rule 67.)

138. Cases will be regarded as pending before a tribunal until appeal has been taken from its decision, or until the limit of appeal which must be fixed in contested cases has expired.

139. Cases which have been deliberately decided by one Commissioner will not be reconsidered by his successor except in accordance with the principles which govern the granting of new trials.

140. Upon receiving a petition which shall state concisely and clearly any proper question, which has been twice acted upon by the examiner, and which does not involve the merits of the case, or the rejection of a claim, and which shall also state the facts involved and the point or points to be reviewed, an order will be made fixing a time for hearing such petition by the Commissioner, and directing the examiner to report upon or answer the matters averred in such petition at least five days before such day of hearing.

141. In cases of interference parties have the same remedy by appeal to the examiners-in-chief and to the Commissioner as in *ex parte* cases; but no appeal lies in such cases from the decision of the Commissioner.

142. Appeals in interference cases must be accompanied with brief statements of the reasons therefor; and both parties will be required to file briefs of their arguments before the day of hearing. Printed briefs are in all cases preferred.

143. From the adverse decision of the Commissioner upon the claims of an application an appeal may be taken to the supreme court of the District of Columbia sitting *in banc*. On taking such appeal, the applicant is required, under the rules of the court, to pay to the clerk of the court a docket fee of ten dollars, and he is also required by law to lay before the court certified copies of all the original papers and evidence in the case. The petition should be filed and the fee paid at least ten days before the commencement of the term of court at which the appeal is to be heard.

144. Immediately upon taking an appeal the appellant must give notice thereof to the Commissioner of Patents, and file in the Patent Office his reasons of appeal specifically set forth in writing.

145. *Pro forma* proceedings will not hereafter be had in the Patent Office for the purpose of securing to applicants an appeal to the Supreme Court of the District of Columbia.

HEARINGS AND INTERVIEWS.

146. Hearings will be had by the Commissioner at 10 o'clock a. m., and by the board of examiners-in-chief and the examiner of interferences at 1 o'clock

p. m., on the day appointed, unless some other hour be specially designated. If either party in a contested case, or the appellant in an *ex parte* case, appear at the proper time, he will be heard by the examiner of interferences or the examiners in chief; but a contested case will not be taken up for oral argument after the day of hearing, except by consent of both parties. If the engagements of the tribunal having jurisdiction of the case be such as to prevent it from being taken up on the day of hearing, a new assignment will be made, or the case will be continued from day to day until heard. Unless it shall be otherwise ordered before the hearing begins, oral arguments will be limited to one hour for each party. After a contested case has been argued, nothing further relating thereto will be heard unless upon request of the tribunal having jurisdiction of the case; and all interviews for this purpose with parties in interest or their attorneys will be invariably denied.

147. Interviews with examiners concerning applications and other matters pending before the office must be had at such times, within office hours, as the respective examiners may designate, in the examiners' rooms, with the principal examiners, or, in their absence, with the assistants in charge; they will not be had at any other time or place without the written authority af the Commissioner.

148. Interviews for the discussion of pending applications will not be had prior to the first official action thereon.

MOTIONS.

149. In contested cases reasonable notice of all motions, and copies of motion-papers and affidavits, must be served, as provided for in Rule 150 (2). Proof of such service must be made before the motion will be entertained by the office; and motions will not be heard in the absence of either party except upon default after due notice. Motions will be heard in the first instance by the officer or tribunal before whom the particular case may be pending; but an appeal from the decision rendered may be taken on questions involving the merits of the case to the board of examiners in chief; on other questions, directly to the Commissioner. In original hearings, on motions, the moving parties shall have the right to make the opening and closing arguments In contested cases the practice on points to which the rules shall not be applicable will conform, as nearly as possible, to that of the United States courts in equity proceedings.

TAKING AND TRANSMITTING TESTIMONY.

150. The following rules have been established for taking and transmitting testimony in extensions, interferences, and other contested cases:

(1.) Before the depositions of witnesses are taken by either party due notice shall be given to the opposite party, as hereinafter provided, of the time and place when and where the depositions will be taken of the cause or matter in which they are to be used, and of the names and residences of the witnesses to be examined, so that the opposite party shall have full opportunity, either in person or by attorney, to cross-examine the witnesses. If the opposite party shall attend the examination of witnesses not named in the notice, and shall either cross-examine such witnesses or fail to object to their examination, he shall be deemed to have waived any objection to their examination based on want of notice thereof. Neither party shall take testimony in more than one place at the same time, or so nearly at the same time as not to allow reasonable time to travel from one place of examination to the other.

(2.) The notice for taking testimony or for motions must be served (unless otherwise stipulated in an instrument in writing filed in the case) upon the attorney of record, if there be one, or, if there be no attorney of record, then upon the adverse party, and it must give the opposite party reasonable time to reach the place of examination. Such service may be made by delivering a copy of the notice to the adverse party or attorney, by leaving a copy at the usual place of business of the party or attorney with some one in the employment of such party or attorney, or by leaving a copy at the party's usual place of residence with a member of his family, or by transmission by registered letter, or by express, or when it shall be shown, to the satisfaction of the Commis-

sioner, that neither of the other modes of service herein prescribed is practicable, by publication in the Official Gazette; and such notice shall, with sworn proof of the fact, time, and mode of service thereof, be attached to the deposition or depositions, whether the opposing party shall have cross-examined or not.

(3.) Each witness before testifying shall be duly sworn according to law by the officer before whom his deposition shall be taken. The depositions shall be carefully read over by the witness, or by the officer in his hearing, and shall then be subscribed by the witness, in the presence of the officer. The officer shall annex to the deposition his certificate showing (1) the due administration of the oath by the officer to the witness before the commencement of his testimony; (2) the name of the person by whom the testimony was written out, and the fact that, if not written by the officer it was written in his presence; (3) the presence or absence of the adverse party; (4) the place, day and hour of commencement and taking the depositions; and (5) the fact that the officer was not connected, by blood or marriage, with either of the parties, nor interested directly or indirectly in the matter in controversy. The officer shall sign the certificate and affix thereto his seal of office, if he have such a seal. He shall then, without delay, securely seal up all the evidence, notices, and paper exhibits, inscribe upon the envelope a certificate, giving the title of the case, the name of each witness, and the date of sealing, address the package, and forward the same to the Commissioner of Patents. If the weight or bulk of an exhibit shall exclude it from the envelope, it shall be authenticated by the officer and transmitted in a separate package, marked and addressed as above provided.

(4.) In cases of extension, where no opposition shall be made *ex parte* testimony will be received from the applicant; and such testimony as may have been taken by the applicant prior to notice of opposition will be received, unless taken within thirty days after filing the petition for the extension. But upon receiving notice of opposition, the applicant shall immediately give notice to the opposing party or parties of the names and residences of the witnesses whose testimony shall have been thus taken.

(5.) If either party shall be unable to procure the testimony of a witness within the time limited, any motion which he may make for an extension of his time must be accompained by a statement under oath, of the cause of such inability, the name of such witness, the facts expected to be proved by him, the steps which have been taken to procure said testimony, and the dates at which efforts have been made to procure it. (See Rule 149).

(6.) When a party relies upon a caveat to establish the date of his invention, the caveat itself, or a certified copy thereof, must be filed in evidence, with due notice to the opposite party.

(7.) Upon notice given to the opposite party before the closing of the testimony, any official record, and any special matter contained in a printed publication, if competent evidence and pertinent to the issue, may be used as evidence at the hearing.

151. The pages of each deposition must be numbered consecutively, and the name of the witness plainly and conspicuously written at the top of each page. The testimony must be taken upon legal-cap or foolscap paper, with a wide margin on the left-hand side of the page, and with the writing on one side only of the sheet.

152. The testimony will be taken in answer to interrogatories, with the questions and answers committed to writing in their regular order by the officer, or, in his presence, by some person not interested in the case, either as a party thereto or as attorney. But, with the written consent of the parties, the depositions may be written out by other persons in the presence of the officer. No officer who is connected by blood or marriage with either of the parties, or interested, directly or indirectly, in the matter in controversy, either as counsel, attorney, agent, or otherwise, is competent to take depositions, unless with the written consent of all the parties.

153. By leave of the Commissioner, first obtained, testimony may be taken in foreign countries:

(1.) Such permission will be granted only upon motion duly made. (See Rule 149.)

The motion must designate a place for the examination of the witnesses at which an officer duly qualified to take testimony under the laws of the United States in a foreign country shall reside, and it must be accompanied by a state-

ment, under oath, that the motion is made in good faith, and not for purposes of delay or of vexing or harassing any party to the case; it must also set forth the names of the witnesses the particular facts to which it is expected each will testify, and the grounds on which is based the belief that each will so testify.

(2.) It must appear that the testimony desired is material and competent, and that it cannot be taken in this country at all, or cannot be taken here without hardship and injury to the moving party greatly exceeding that to which the opposite party will be exposed by the taking of such testimony abroad.

(3.) Upon the granting of such motion, a time will be set within which the moving party shall file in duplicate the interrogatories to be propounded to each witness and serve a copy of the same upon each adverse party, who may, within a designated time, file, in duplicate, cross-interrogatories. Objections to any of the interrogatories or cross-interrogatories may be filed at any time before the depositions are taken, and will be considered and determined upon the hearing of the case.

(4.) As soon as the interrogatories and cross-interrogatories are decided to be in proper form, the Commissioner will cause them to be forwarded to the proper officer, with the request that, upon payment of, or satisfactory security for, his official fees, he notify the witnesses named to appear before him within a designated time and make answer thereto under oath; and that he reduce their answers to writing, and transmit the same, under his official seal and signature, to the Commissioner of Patents, with the certificate prescribed in Rule 150 (3).

(5.) By stipulation of the parties the requirements of paragraph (3) as to written interrogatories and cross-interrogatories may be dispensed with, and the testimony may be taken before the proper officer upon oral interrogatories by the parties or their agents.

(6.) Unless false swearing in the giving of such testimony before the officer taking it shall be punishable as perjury, under the laws of the foreign state where it shall be taken, it will not stand on the same footing, in the Patent Office, as testimony duly taken in the United States; but its weight in each case will be determined by the tribunal having jurisdiction of such case.

154. No evidence touching the matter at issue will be considered on the hearing which shall not have been taken and filed in compliance with these rules. But no notice will be taken of any merely formal or technical objection which shall not appear to have wrought a substantial injury to the party raising it; and in case of such injury it must be made to appear that, as soon as the party became aware of the ground of objection, he gave notice thereof to the office, and also to the opposite party, informing him at the same time that, unless it should be removed, he should urge his objection at the hearing. This rule is not to be so construed as to modify established rules of evidence, which will be applied strictly in all practice before the office.

155. The law requires the clerks of the various courts of the United States to issue subpœnas to secure the attendance of witnesses whose depositions are desired as evidence in contested cases in the Patent Office.

156. After testimony is filed in the office it may be inspected by any party to the case, but it cannot be withdrawn for the purpose of printing. It may be printed by some one specially designated by the office for that purpose, under proper restrictions.

157. Six or more printed copies of the testimony must be furnished—five for the use of the office, and one for the use of each of the opposing parties. The statement required by Rule 105 must be printed as part of the record. These copies must be filed not less than one week before the day of hearing. They will have wide margins, with the names of the witnesses at the top of the pages over their testimony, and will contain indices with the names of all witnesses, and references to the pages where their testimony may be found, and also to the pages where copies of papers and documents introduced as exhibits are shown. Printing can only be dispensed with on special application based upon satisfactory reasons, in which case manuscript copies must be furnished—one for the office and one for each adverse party.

158. It is desirable that arguments and briefs in all contested cases should be submitted in printed form, and filed before the hearing. If either party fail to comply with this regulation, no extension of time will be granted for the purpose, except upon consent of the adverse party.

ISSUE.

159. If, on examination, it shall appear that the applicant is justly entitled to a patent under the law, a notice of allowance will be sent him, calling for the payment of the final fee, upon the receipt of which, within the time fixed by law, the patent will be prepared for issue. (See Rules 212, 213.)

160 After notice of the allowance of an application is given, the case will not be withdrawn from issue except by appproval of the Commissioner, and if with drawn for further action on the part of the office, a new notice of allowance will be given. When the final fee has been paid upon an application for letters patent, and the case has received its date and number, it will not be withdrawn or suspended from issue on account of any mistake or change of purpose of the applicant or his attorney, nor for the purpose of enabling the inventor to procure a foreign patent, nor for any other reason except mistake on the part of this office, or fraud, or illegality in the application, or for interference. (See Rule 77)

DATE, DURATION, AND FORM OF PATENTS.

161. Every patent will bear date as of a day not later than six months from the time at which the application was passed and allowed and notice thereof was mailed to the applicant or his agent, if within that period the final fee be paid to the Commissioner of Patents, or if it be paid to the treasurer, or any of the assistant treasurers or designated depositaries of the United States, and the certificate promptly forwarded to the Commissioner of Patents; and if the final fee be not paid within that period, the patent will be withheld. (See Rule 169.)

A patent will not be ante-dated.

162. Every patent will contain a short title of the invention or discovery, indicating its nature and object, and a grant to the patentee, his heirs and assigns, for the term of seventeen years, of the exclusive right to make, use, and vend the invention or discovery throughout the United States and Territories thereof. But if the invention shall have been previously patented abroad, the term of the patent will expire with the term of the foreign patent. The duration of a design patent may be for the term of three and a half, seven, or fourteen years, as provided in Rule 79. A copy of the specification and drawings will be annexed to the patent and form part thereof.

DELIVERY.

163. The patent will be delivered or mailed, on the day of its date, to the patentee, unless there be an attorney of record, in which case it will be delivered to him or the patentee, as the attorney may request; but it will not, without a special request to that effect, be delivered to an associate or substitute attorney.

CORRECTION OF ERRORS IN LETTERS PATENT.

164. Where a mistake, incurred through the fault of the office, is clearly disclosed by the records or files of the office, a certificate, showing the fact and nature of such mistake, signed by the Secretary of the Interior, countersigned by the Commissioner of Patents, and sealed with the seal of the patent office, will, at the request of the patentee or his assignee, be indorsed without charge upon the letters patent, and recorded in the records of patents, and a printed copy thereof attached to each printed copy of the specification and drawings.

Where a mistake, incurred through the fault of the office, constitutes a sufficient legal ground for a reissue, such reissue will be made, for the correction of such mistake only, without charge of office fees, at the request of the patentee,

Mistakes not incurred through the fault of the office, and not affording legal grounds for reissues, will not be corrected after the delivery of the letters patent to the patentee or his agent.

No changes or corrections will be made in letters patent after the delivery thereof to the patentee or his agent, except as above provided.

ABANDONED, FORFEITED, AND RENEWED APPLICATIONS.

165. An abandoned application is one which has not been completed and prepared for examination within two years after the filing of the petition, or which the applicant has failed to prosecute within two years after any action therein, of which notice has been duly given (see Rules 31 and 76), or which the applicant has expressly abandoned by filing, in the office, a written declaration of abandonment, signed by himself (and assignee, if any), identifying his application by title of invention and date of filing. (See Rule 59.)

Prosecution of an application, to save it from abandonment, must include such proper action as the condition of the case may require.

166. Before an application abandoned by failure to complete or prosecute can be renewed, it must be shown to the satisfaction of the Commissioner that the delay in the prosecution of the same was unavoidable.

167. When a new application is filed in place of an abandoned or rejected application, a new specification, oath, drawing, and fee will be required; but the old mode, if suitable, may be used.

168. A forfeited application is one upon which a patent has been withheld for failure to pay the final fee within the prescribed time. (See Rule 161.)

169. Where the patent has been withheld by reason of non-payment of the final fee, any person, whether inventor or assignee, who has an interest in the invention for which such patent was ordered to issue, may file a new application for the same invention; but such second application must be made within two years after the allowance of the original application. Upon the hearing of such new application, abandonment will be considered as a question of fact.

170. In such renewal the oath, petition, specification, drawing, and model of the original application may be used for the second application; but a new fee will be required. The second application will not be regarded as a continuation of the original one, but will bear date from the time of renewal, and be subject to examination like an original application.

171. Forfeited and abandoned applications will not be cited as references.

No notice will be given to applicants, while their cases remain forfeited, of the filing of subsequent applications.

Certified copies of the files in cases of rejected and abandoned applications may be furnished to applicants or to other persons when specifically ordered by the Commissioner.

EXTENSIONS.

172. No patent granted since March 2, 1861, can be extended except by act of Congress.

173. When a patent has been so extended, subject to the further decision of the Commissioner, the subsequent proceedings will be conducted in accordance with the following rules:

174. Any person may oppose an application for extension, but must give notice of such opposition to the applicant or his attorney of record within the time hereinafter named, and furnish him with a statement of his reasons of opposition. After such notice he will be regarded as a party in the case, and will be entitled to notice of the time and place of taking testimony, to a list of the names and residences of the witnesses whose testimony may have been taken before service of his notice of opposition, and to a copy of the application and of any other papers on file, upon payment of the cost thereof. He must also immediately file a copy of such notice and reasons of opposition, with proof of service of the same, in the patent office.

175. If the extension is opposed on the ground of lack of novelty in the invention, the reasons of opposition must contain a specific statement of any and all matter relied upon for this purpose.

176. The applicant for an extension must furnish to the office a statement in writing, under oath, of the ascertained value of the invention and of his receipts and expenditures on account thereof, both in this and in foreign countries. This statement must be detailed and particular, unless sufficient reasons are shown for a failure to make it so. It must in all cases be filed with the petition.

177. Such statement must also be accompanied with a certified abstract of title and a declaration under oath, setting forth the extent of the applicant's interest in the extension sought.

178. The questions which arise on each application for an extension are:
(1.) Was the invention new and useful when patented?
(2.) Is it valuable and important to the public, and to what extent?
(3.) Has the inventor been reasonably remunerated for the time, ingenuity, and expense bestowed upon the invention and upon its intoduction into use? If not, has his failure to be so remunerated arisen from neglect or fault on his part?
(4.) What will be the effect of the proposed extension upon the public interests?

179. No proof will be required from the applicant upon the first question unless the invention is assailed upon those points by opponents.

180. To enable the Commissioner to come to a correct conclusion in regard to the second point of inquiry, the applicant must, if possible, present the testimony of disinterested persons taken under oath. This testimony must distinguish carefully between the specific devices covered by the claims of the patent and the general machine in which those devices may be incorporated.

181. Upon the third point of inquiry the applicant, having by his own oath shown his receipts and expenditures on account of the invention, must also show, by testimony under oath, that he has taken all reasonable measures to introduce his invention into general use; and that, without neglect or fault on his part, he has failed to obtain from the use and sale of the invention a reasonable remuneration for the time, ingenuity, and expense bestowed on the same, and on its introduction into use.

182. In case of opposition to the extension of a patent both parties may take testimony, each giving reasonable notice to the other of the time and place of taking the same. The testimony will be taken according to the rules hereinafter prescribed.

183. Any person desiring to oppose an extension must serve his notice of opposition, and file his reasons therefor, at least ten days before the day fixed for the closing of the testimony; but parties who have not entered formal opposition in time to put in testimony may, at the discretion of the Commissioner, be permitted to appear on the day of hearing, and make argument upon the record in opposition to the grant of the extension. In such case good cause for the neglect to make formal opposition must be shown.

184. In contested cases no testimony will be received, unless by consent, which has been taken within thirty days next after the filing of the petition for extension.

185. Service of notice to take testimony must be made as provided for in Rule 150 (2). Where notice to take testimony has already been given to an opponent, and a new opponent subsequently gives notice of his intention to oppose, the examination need not be postponed, but notice thereof may be given to such subsequent opponent by mail or by telegraph. But this rule does not apply to *ex parte* examinations, nor to those of which no notice is given before service of notice of opposition.

186. In the notice of application for extension a day will be fixed for the closing of testimony, and the day of hearing will also be named. Applications for postponement of the day of hearing, or for further time for taking testimony, must be made and supported in accordance with the rules to be observed in other contested cases; but no postponement will be granted whereby any risk of delaying the decision until the expiration of the patent may be incurred. Upon the closing of the testimony the application will be referred without delay to the examiner in charge of the class to which the invention belongs for the report required by law; and such report shall be made not less than five days before the day of hearing. As this report is intended for the information of the Commissioner, neither the parties nor their attorneys will be permitted to make oral arguments before the examiner. In contested cases briefs are deemed desirable, and these should always be filed at least five days before the day of hearing.

DISCLAIMERS.

187. Whenever, through inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, a patentee has claimed more than that of which he was the original or first inventor or discoverer, his patent shall be valid for all that part which is truly and justly his own, provided the same is a

material or substantial part of the thing patented; and any such patentee, his heirs or assigns, whether of the whole or any sectional interest therein, may, on payment of the fee required by law, make disclaimer of such parts of the thing patented as he or they shall not choose to claim or to hold by virtue of the patent or assignment, stating therein the extent of his interest in such patent. Such disclaimer shall be in writing, attested by one or more witnesses, and recorded in the patent office; and it shall thereafter be considered as part of the original specification to the extent of the interest possessed by the claimant and by those claiming under him after the record thereof. But no such disclaimer shall affect any action pending at the time of filing the same, except as to the question of unreasonable neglect or delay in filing it.

188. Such disclaimers must be distinguished from those which are embodied in original or reissue applications, as at first filed or subsequently amended, referring to matter shown or described, but to which the claimant does not choose to claim title, and also from those made to avoid the continuance of interferences, which require no fee, but must, like all other disclaimers, be signed by the applicants in person and duly witnessed. (See Rule 104.)

CAVEATS.

189. A caveat, under the patent law, is a notice given to the office of the caveator's claim as inventor, in order to prevent the grant of a patent to another for the same alleged invention upon an application filed during the life of the caveat without notice to the caveator.

190. Any citizen of the United States who has made a new invention or discovery and desires further time to mature the same, may, on payment of a fee of ten dollars, file in the patent office a caveat setting forth the object and the distinguishing characteristics of the invention, and praying protection of his right until he shall have matured his invention. Such caveat shall be filed in the confidential archives of the office and preserved in secrecy, and shall be operative for the term of one year from the filing thereof.

191. An alien has the same privilege, if he has resided in the United States one year next preceding the filing of his caveat, and has made oath of his intention to become a citizen.

192. The caveat must comprise a specification, oath, and, when the nature of the case admits of it, a drawing and, like the application, must be limited to a single invention or improvement.

193. The same particularity of description is not required in a caveat as in an application for a patent; but the caveat must set forth the object of the invention and the distinguishing characteristics thereof, and it should be sufficiently precise to enable the office to judge whether there is a probable interference when a subsequent application is filed. If upon examination a caveat be found defective in this respect, amendment will be required. Without compliance with Rules 190, 192, 193, and 195, the caveator will not be entitled to the notice provided for in Rule 196

194. The oath of the caveator must set forth that he is a citizen of the United States, or if he be an alien, that he has resided for one year past within the United States and has made oath of his intention to become a citizen thereof, and that he believes himself the original and first inventor of the art, machine, or improvement set forth in his caveat.

195 When practicable, the caveat should be accompanied by full and accurate drawings, separate from the specification, well executed on tracing muslin or paper that may be folded. (See Rule 50.)

196. If at any time within one year after the filing or renewal of a caveat, another person shall file an application with which such caveat would in any manner interfere, and if, within the year the application shall be found patentable, then such application will be suspended, and notice thereof will be sent to the person filing the caveat, who, if he shall file a complete application within the prescribed time, will be entitled to an interference with the previous application, for the purpose of proving priority of invention, and obtaining the patent, if he be adjudged the prior inventor. The caveator, if he would avail himself of his caveat, must file his application within three months from the expiration of the time regularly required for the transmission to him of the notice deposited in the post-office at Washington; and the day when the time for filing expires will be mentioned in the notice or indorsed thereon.

197. The caveator will not be entitled to notice of any application pending at the time of filing his caveat, nor of any application filed after the expiration of one year from the date of the filing or renewal thereof. The caveat may be renewed by the payment of a second caveat fee of ten dollars, and it will continue in force for one year from the date of the payment of such second fee. Subsequent renewals may be made with like effect. If a caveat be not renewed, it will still be preserved in the secret archives of the office.

198. A caveat confers no rights and affords no protection except as to notice of an interfering application filed during its life, giving the caveator the opportunity of proving priority of invention if he so desires. It may be used as evidence in contests, as provided in Rule 150 (6).

199. There is no provision of law making the caveat assignable, although the alleged invention therein set forth is assignable, and the caveat may be used as means of identifying the invention transferred in an assignment.

200. Caveat papers cannot be withdrawn from the office after they have once been filed; but copies of the papers may be obtained at the usual rates by the caveator or any person duly authorized by him. Additional papers, if containing new matter, must be filed as a separate caveat with another fee.

ASSIGNMENTS.

201. Every patent or any interest therein shall be assignable in law by an instrument in writing; and the patentee or his assigns or legal representatives may, in like manner, grant and convey an exclusive right under his patent to the whole or any specific part of the United States.

202. Interests in patents may be vested in assignees, in grantees of exclusive sectional rights and mortgagees, and in licenses.

(1.) An assignee is a transferee of the whole interest of the original patent, or of an undivided part of such whole interest, extending to every portion of the United States. The assignment must be written or printed and duly signed.

(2.) A grantee acquires by the grant the exclusive right, under the patent, to make and use, and to grant to others the right to make and use, the thing patented, within and throughout some specified part of the United States, excluding the patentee therefrom. The grant must be written or printed and duly signed.

(3.) A mortgage must be written or printed and duly signed.

(4.) A license takes an interest less than or different from either of the others. A license may be oral, or written or printed and duly signed.

203. An assignment, grant, or conveyance will be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless recorded in the patent office within three months from the date thereof.

204. No instrument will be recorded which does not, in the judgment of the Commissioner, amount to an assignment, grant, mortgage, lien, encumbrance, or license, or affect the title of the patent or invention to which it relates.

205. Assignments which are made conditional on the performance of certain stipulations, as the payment of money, if recorded in the office, are regarded as absolute assignments, until canceled with the written consent of both parties, or by the decree of a competent court. The office has no means of determining whether such conditions have been fulfilled.

206. In every case where it is desired that the patent shall issue to an assignee, the assignment must be recorded in the patent office at a date not later than the day on which the final fee is paid. The date of the record is the date of the receipt of the assignment at the office.

207. The receipt of assignments is not generally acknowledged by the office. They are recorded in regular order as promptly as possible, and then transmitted to the persons entitled to them.

OFFICE FEES.

208. Nearly all the fees payable to the patent office are positively required by law to be paid in advance—that is, upon making application for any action by the office for which a fee is payable. For the sake of uniformity and convenience, the remaining fees will be required to be paid in the same manner:

209. The following is the schedule of fees and of prices of publications, etc., of the Patent Office:

On filing each original application for a design patent for three years and six months	$10 00
On filing each original application for a design patent for seven years	15 00
On filing each original application for a design patent for fourteen years	30 00
On allowance of an application for a design patent, no further charge.	
On filing each caveat	10 00
On filing each original application for a patent	15 00
On allowance of an original application for a patent, except in design cases	20 00
On filing each disclaimer	10 00
On filing every application for the reissue of a patent	30 00
On filing each application for a division of a reissue	30 00
On allowance of an application for the reissue of a patent, no further charge.	
On filing every application for an extension of a patent	50 00
On the granting of every extension of a patent	50 00
On filing an appeal from a primary examiner to the examiners-in-chief.	10 00
On filing an appeal from the examiners-in-chief to the Commissioner	20 00
For manuscript copies of records in the English language, for every one hundred words or fraction thereof	10
If certified, for the certificate additional	25
For copies of drawings not in print, the reasonable cost of making them.	
For uncertified copies of the specifications and accompanying drawings of all patents which are in print:	
Single copies	25
Twenty copies or more, whether one or several patents, per copy.	10
For twenty coupon orders, each coupon good until used for one copy of a printed specification and drawing	2 00
For certified copies of patents, whether in manuscript or in print:	
For the specification, for every one hundred words or fraction thereof	10
For the drawings, if in print	25
For the drawings, if not in print, the reasonable cost of making them, as above.	
For the certificate	25
For the grant	50
For certifying to a duplicate of a model	50
For abstracts of title to patents or inventions:	
For the certificate of search	1 00
For each brief from the digests of assignments	20
For copies of matter in any foreign language, for every one hundred words or fraction thereof	20
For translation, for every one hundred words or fraction thereof	50
For recording every assignment, agreement, power of attorney, or other paper, of three hundred words or under	1 00
For recording every assignment, agreement, power of attorney, or other paper of over three hundred words and under one thousand words	2 00
For recording every assignment, agreement, power of attorney, or other paper of over one thousand words	3 00
For assistance to attorneys and others in the examination of records, one hour or less	50
Each additional hour or fraction thereof	50
For assistance to attorneys in the examination of patents or other matter in the scientific library, one hour or less	1 00
Each additional hour or fraction thereof	1 00
For subscription to the OFFICIAL GAZETTE, published every Tuesday, all subscriptions to commence with the beginning of a volume, none being taken for a less period than three months, and there being no club rates or discount to news dealers, as follows:	
To all subscribers within the United States and Canada, one year.	5 00

To foreign subscribers, except in Canada	7 00
Single numbers	10
For bound volumes of the OFFICIAL GAZETTE: Semi-annual volumes, from January 1, 1872, to June 30, 1883, full sheep binding, per volume	4 00
Do. Half sheep binding, per volume	3 50
Quarterly volumes subsequent to July 1, 1883, full sheep binding, per volume	2 75
For the annual index—lists of patentees and inventions alphabetically arranged, with date of patent, number, etc., from January, 1872—one volume each year, full law binding, per volume	2 00
In paper covers, per volume	1 00
For the general index—a list of inventions patented from 1790 to 1873, with the name of inventor, residence, date of patent, number, etc.—three volumes, full law binding, per set	10 00
For the index from 1790 to 1836—a list of inventions patented from 1790 to 1836, photolithographed from Patent Office Reports—one volume, full law binding	5 00
For the monthly volumes, containing the specifications and photolithographed copies of the drawings of all patents issued during the month, certified, bound full sheep, per volume	12 00
Do. Bound half sheep, per volume	10 00
For the index to Patents Relating to Electricity, granted by the United States prior to June 30, 1882, one volume, two hundred and fifty pages, bound	5 00
In paper covers	3 00
Appendix from June 30, 1882, to June 30, 1883, paper covers	1 50
For Commissioner's Decisions:	
For 1869–'70–'71, bound in one volume, full law binding	2 00
For 1872–'73–'74, bound in one volume, full law binding	2 00
For 1875–'76, bound in one volume, with decisions of United States courts in patent cases, full law binding	2 00
For 1875–'76, bound in paper covers	1 00
For 1877–'78–'79–'80–'81–'82–'83, one volume *each year*, with decisions of United States courts, full law binding, per volume	2 00
For 1877–'78–'79–'80–'81–'82–'83, bound in paper covers	1 00

There are no annual reports for gratuitous distribution.

210. An order for a copy of an assignment must give the liber and page of the record, as well as the name of the inventor; otherwise an extra charge will be made for the time consumed in making any search for such assignment.

211. No person will be allowed to make copies or tracings from the files or records of the office. Such copies will be furnished, when ordered, at the rates already specified.

212. The money required for office fees may be paid to the Commissioner, or to the Treasurer, or any of the assistant treasurers of the United States, or to any of the designated depositories, national banks, or receivers of public money, designated by the Secretary of the Treasury for that purpose, who shall give the depositor a receipt or certificate of deposit therefor, which shall be transmitted to the patent office. When this cannot be done without much inconvenience, the money may be remitted by mail, and in every such case the letter should state the exact amount inclosed. Letters containing money may be registered. Post-office money-orders now afford a safe and convenient mode of transmitting fees. All such orders should be made payable to the "Commissioner of Patents."

213. The weekly issue will close on Thursday, and the patents of that issue will bear date as of the third Tuesday thereafter. If the final fee in any application is not paid on or before Thursday, the patent will not go to issue until the following week.

214. All money sent by mail, either to or from the patent office, will be at the risk of the sender. In no case should money be sent inclosed with models. All payments to or by the office must be made in specie, treasury-notes, national-bank notes, certificates of deposit, or post-office money orders.

REPAYMENT OF MONEY.

215. Money paid by actual mistake, such as a payment in excess, or when not required by law, or by neglect or misinformation on the part of the office, will be refunded; but a mere change of purpose after the payment of money, as when a party desires to withdraw his application for a patent, or for the registration of a trade-mark, or an appeal, will not entitle a party to demand such a return.

PUBLICATIONS.

216. The "Official Gazette," a weekly publication which has been issued since 1872, takes the place of the old 'Patent Office Report." It contains the claims of all patents issued, including reissues, with portions of the drawings selected to illustrate the claims, and also lists of design patents, together with decisions of the courts and of the Commissioner, and other special matters of interest to inventors.

The Gazette is furnished to subscribers at the rate of $5 per annum. When it is sent abroad an additional charge of $2 will be made for the payment of postage. But representatives and senators are each entitled to designate eight public libraries to which it will be sent without charge. Single copies are furnished for 10 cents each.

An index is published annually, which is sent to all subscribers and designated libraries without additional cost.

Printed volumes are issued monthly, containing the entire specifications and drawings of all patents issued during the previous month. These are authenticated by the seal of the office, and may be used as evidence throughout the United States. One copy is deposited in each State library, and one copy in the custody of the clerk of each United States district court, for general reference.

LIBRARY REGULATIONS.

217. No persons are allowed to enter the alcoves, or take books from the library, except officers of the bureau and members of the examining corps.

All books taken from the library must be entered in a register kept for the purpose, and returned on the call of the librarian.

Any book lost or defaced must be replaced by a copy of the same.

Patentees and others doing business with the office can examine the books only in the library hall.

Translations will be made only for official use.

Persons will be allowed to make notes or extracts, but not copies or tracings from works in the library. Such copies will be furnished at the usual rates.

TRADE-MARKS.

AN ACT to authorize the registration of trade-marks and protect the same.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That owners of trade marks used in commerce with foreign nations or with the Indian tribes, provided such owners shall be domiciled in the United States or located in any foreign country or tribes, which, by treaty, convention, or law, affords similar privileges to citizens of the United States, may obtain registration of such trade-marks by complying with the following requirements:

First. By causing to be recorded in the Patent Office a statement specifying name, domicile, location, and citizenship of the party applying; the class of merchandise, and the particular description of goods comprised in such class to which the particular trade-mark has been appropriated; a description of the trade-mark itself, with fac-similes thereof, and a statement of the mode in which the same is applied and affixed to goods, and the length of time during which the trade-mark has been used.

Second. By paying into the Treasury of the United States the sum of twenty-five dollars, and complying with such regulations as may be prescribed by the Commissioner of Patents.

SEC. 2. That the application prescribed in the foregoing section must, in order to create any right whatever in favor of the party filing it, be accompanied by a written declaration verified by the person, or by a member of a firm, or by an officer of a corporation applying, to the effect that such party has at the time a right to the use of the trade-mark sought to be registered, and that no other person, firm, or corporation has the right to such use, either in the identical form or in any such near resemblance thereto as might be calculated to deceive; that such trade-mark is used in commerce with foreign nations or Indian tribes, as above indicated; and that the description and fac similes presented for registry truly represent the trade-mark sought to be registered.

SEC. 3. That the time of the receipt of any such application shall be noted and recorded. But no alleged trade-mark shall be registered unless the same appear to be lawfully used as such by the applicant in foreign commerce or commerce with Indian tribes, as above mentioned, or is within the provisions of a treaty, convention, or declaration with a foreign power; nor which is merely the name of the applicant; nor which is identical with a registered or known trade-mark owned by another, and appropriate to the same class of merchandise, or which so nearly resembles some other person's lawful trade-mark as to be likely to cause confusion or mistake in the mind of the public, or to deceive purchasers. In an application for registration the Commissioner of Patents shall decide the presumptive lawfulness of claim to the alleged trade-mark; and in any dispute between an applicant and a previous registrant or between applicants, he shall follow, so far as the same may be applicable, the practice of courts of equity of the United States in analogous cases.

SEC. 4. That certificates of registry of trade-marks shall be issued in the name of the United States of America, under the seal of the Department of the Interior, and shall be signed by the Commissioner of Patents, and a record thereof, together with printed copies of the specifications, shall be kept in books for that purpose. Copies of trade-marks and of statements and declarations filed therewith, and certificates of registry so signed and sealed shall be evidence in any suit in which such trade-marks shall be brought in controversy.

SEC. 5. That a certificate of registry shall remain in force for thirty years from this date, except in cases where the trade-mark is claimed for and applied to articles not manufactured in this country, and in which it receives protection under the laws of a foreign country for a shorter period, in which case it shall

cease to have any force in this country by virtue of this act at the time that such trade-mark ceases to be exclusive property elsewhere. At any time during the six months prior to the expiration of the term of thirty years, such registration may be renewed on the same terms and for a like period.

SEC. 6. The applicants for registration under this act shall be credited for any fee or part of a fee heretofore paid into the Treasury of the United States with intent to procure protection for the same trade-mark.

SEC. 7. That registration of a trade mark shall be *prima facie* evidence of ownership. Any person who shall reproduce, counterfeit, copy, or colorably imitate any trade-mark registered under this act and affix the same to merchandise of substantially the same descriptive properties as those described in the registration shall be liable to an action on the case for damages for the wrongful use of said trade-mark at the suit of the owner thereof; and the party aggrieved shall also have his remedy according to the course of equity to enjoin the wrongful use of such trade-mark used in foreign commerce or commerce with Indian tribes, as aforesaid, and to recover compensation therefor in any court having jurisdiction over the person guilty of such wrongful act; and courts of the United States shall have original and appellate jurisdiction in such cases without regard to the amount in controversy.

SEC. 8. That no action or suit shall be maintained under the provisions of this act in any case when the trade mark is used in any unlawful business or upon any article injurious in itself, or which mark has been used with the design of deceiving the public in the purchase of merchandise, or under any certificate of registry fraudulently obtained.

SEC. 9. That any person who shall procure the registry of a trade mark, or of himself as the owner of a trade-mark, or an entry respecting a trade-mark, in the office of the Commissioner of Patents, by a false or fraudulent representation or declaration, orally or in writing, or by any fraudulent means, shall be liable to pay any damages sustained in consequence thereof to the injured party, to be recovered in an action on the case.

SEC. 10 That nothing in this act shall prevent, lessen, impeach or avoid any remedy at law or in equity which any party aggrieved by any wrongful use of any trade-mark might have had if the provisions of this act had not been passed.

SEC. 11. That nothing in this act shall be construed as unfavorably affecting a claim to a trade mark after the term of registration shall have expired; nor to give cognizance to any court of the United States in an action or suit between citizens of the same State, unless the trade-mark in controversy is used on goods intended to be transported to a foreign country, or in lawful commercial intercourse with an Indian tribe.

SEC. 12. That the Commissioner of Patents is authorized to make rules and regulations and prescribe forms for the transfer of the right to use trade-marks and for recording such transfers in his office.

SEC. 13. That citizens and residents of this country wishing the protection of trade-marks in any foreign country, the laws of which require registration here as a condition precedent to getting such protection there, may register their trade-marks for that purpose as is above allowed to foreigners, and have certificates thereof from the Patent Office.

Approved March 3, 1881.

AN ACT RELATING TO THE REGISTRATION OF TRADE-MARKS.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That nothing contained in the law entitled "An act to authorize the registration of trade marks and protect the same," approved March third, eighteen hundred and eighty-one, shall prevent the registry of any lawful trade-mark rightfully used by the applicant in foreign commerce or commerce with Indian tribes at the time of the passage of said act.

Approved August 5, 1882.

RULES AND FORMS ADOPTED BY THE UNITED STATES PATENT OFFICE FOR THE REGISTRATION OF TRADE MARKS UNDER THE ACT OF MARCH 3, 1881.

WHO MAY OBTAIN REGISTRATION.

1. (*a.*) Any person, firm, or corporation domiciled in the United States or located in any foreign country which, by treaty, convention, or law, affords similar privileges to citizens of the United States,* and who is entitled to the exclusive use of any trade-mark and uses the same in commerce with foreign nations or with Indian tribes.

(*b.*) Any citizen or resident of this country wishing the protection of his trade-mark in any foreign country the laws of which require registration in the United States as a condition precedent.

STATUTORY REQUIREMENTS.

2. Every applicant for registration of a trade-mark must cause to be recorded in the Patent office—

(*a.*) The name, domicile, and place of business or location of the firm or corporation desiring the protection of the trade-mark, and the residence and citizenship of individual applicants.

(*b.*) The class of merchandise and the particular description of goods comprised in such class to which the trade-mark has been appropriated.

(*c.*) A description of the trade-mark itself, with fac-similes thereof, and the mode in which it has been applied and used.

(*d.*) The length of time during which the trade-mark has been used by the applicant on the class of goods described.

3. A fee of twenty-five dollars is required on filing each application, except in the cases hereinafter named. (See pars. 16 and 17.)

THE APPLICATION.

4. An application for the registration of a trade-mark will consist of a statement and specification, a declaration or oath, and the fac-similes, with duplicates thereof. The statement and declaration should be written on one side of the paper only.

5. The e should be preceded by a brief letter of advice requesting registration and signed by the applicant.

6. The sta ement should announce the full name, citizenship, domicile, residence, and place of business of the applicant (or if the applicant be a corporation, under the laws of what State or nation incorporated,) with a full and clear specification of the trade-mark, particularly discriminating between its essential and non-essential features. It should also state from what time the trade mark has been u ed by the applicant, the class of merchandise, and the particular goods comprised in such class to which the trade-mark is appropriated, and the manner in which the trade mark has been applied to the goods.

7. The declaration shou'd be in the form of an oath by the person, or by a member of the firm, or by an officer of the corporation making the application, to the effect that the party has at the time of filing his application a right to the use of the trade-mark described in the statement; that no other person, firm, or corporation has a right to such use, either in the identical form or in such near resemblance th reto as might be calculated to deceive; that such trade-mark is used in lawful commerce with foreign nations or Indian tribes, one or more of which should particularly be named, and that it is truly represented in the fac-simile presented for registry.

8. This oath may be taken within the United States, before a notary public, justice of the peace, or the judge or clerk of any court of record. In any foreign country it may be taken before the secretary of a legation or consular officer of the United States, or before any person duly qu dified by the laws of the country to administer oaths, whose official character shall be certified by a representative of the United States having an official seal

*The following countries have treaties with the United States at this time, viz: Russia' Belgium, France, Austria, the German Empire, and Great Britain.

FAC-SIMILES TO BE FILED.

9 Where the trade-mark can be represented by a fac simile which conforms to the rules for drawings of mechanical patents*, such a drawing may be furnished by applicant, and the additional copies will be produced by the photo-lithographic process at the expense of the office. Or the applicant may furnish one fac-simile of the trade-mark, mounted on a card ten by fifteen inches in size, and ten additional copies upon flexible paper, not mounted; but in all cases the sheet containing the mounted fac-simile or the drawing must be signed by the applicant or his authorized attorney, and authenticated by two witnesses.

PROCEEDINGS IN THE OFFICE.

10. All applications for registration are considered in the first instance by the trade-mark examiner. An adverse decision by such examiner upon the applicant's right to registration will be reviewed by the Commissioner in person without fee.

11. No trade-mark will be registered unless it shall be made to appear that the same is used as such by the applicant in commerce with foreign nations or with Indian tribes, or is within the provisions of a treaty, convention, or declaration with a foreign power, nor which is merely the name of the applicant, nor which is identical with a known or registered trade-mark owned by another and appropriated to the same class of merchandise, or which so nearly resembles some other person's lawful trade-mark as to be likely to cause confusion in the mind of the public or to deceive purchasers.

12. In case of conflicting applications for registration, or in any dispute as to the right to use, which may arise between an applicant and a prior registrant, the office will declare an interference, in order that the parties may have opportunity to prove priority of adoption or right; and the proceedings on such interference will follow, as nearly as practicable, the practice in interferences upon applications for patents; but each applicant and registrant will be held to the date of adoption alleged in the statement filed with his application. On the petition of any party dissatisfied with the decision of the examiner of interferences the case will be reviewed by the Commissioner without fee.

13. When these requirements have been complied with, and the office has adjudged the trade-mark lawfully registrable, a certificate will be issued by the Commissioner, under seal of the Interior Department, to the effect that applicant has complied with the law, and that he is entitled to the protection of his trade-mark in such case made and provided. Attached to the certificate will be a fac-simile of the trade-mark and a printed copy of the statement and declaration.

14. The protection for such trade-mark will remain in force for thirty years, and may, upon the payment of a second fee, be renewed for thirty years longer, except in cases where such trade-mark is claimed for and applied to articles not manufactured in this country, and in which it receives protection under the laws of any foreign country for a shorter period, in which case it will cease to have force in this country, by virtue of the registration, at the same time that the trade-mark ceases to be exclusive property elsewhere.

15. The right to the use of any trade-mark is assignable by an instrument in writing, and such assignment of a registered trade-mark must be recorded in the Patent Office within sixty days after its execution, in default of which it may be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice. No particular form of assignment or conveyance is prescribed, but the trade-mark must be identified by the certificate number.

16. Owners of trade-marks for which protection has been sought by registering them in the Patent Office under the act of July 8, 1870 (declared unconstitutional by the Supreme Court of the United States), may register the same for the same goods, without fee, on compliance with the foregoing requirements. With each application of this character a specific reference to the date and number of the former certificate is required.

17. Applicants whose cases were filed under the act of 1870, either prior to or since the decision of the Supreme Court declaring it unconstitutional, which

* These rules are furnished on application by letter to the Commissioner.

are now pending before the office, are advised to prepare applications in conformity with the law and foregoing rules. On the receipt of such an application, referring to the date of the one formerly filed, all fees paid thereon will be duly applied. Those who have paid only $10 as a first fee are advised that the law does not provide for a division of the legal fee of $25, and that the remainder of the entire fee is required before the application can be entertained.

COPIES AND PUBLICATIONS.

18. Printed copies of the statement and declaration in each case, with a duplicate of the trade-mark, can be furnished by the office.

The Official Gazette of the Patent Office, published weekly, will contain a list of all trade marks registered, with the name and address of the registrant, a brief statement of the essential features of the trade-mark, and the particular description of goods to which it is applied.

FEES.

19. On filing an application for registration of the trade mark	$25 00
For recording assignments—	
Under 300 words	1 00
Over 300 and less than 1,000 words	2 00
Over 1,000 words	3 00
For single printed copy of statement and declaration	25
Single copy of Official Gazette	10
Annual subscription Official Gazette	5 00

CORRESPONDENCE.

20. All letters should be addressed to "The Commissioner of Patents;" and all remittances by postal order check, or draft should be to his order.

21. Letters relating to pending applications should refer to the name of the applicant and date of filing. Letters relating to registered trade-marks must refer to the name of registrant, number or date of certificate, and the class of merchandise to which the trade-mark is applied.

22. The office cannot undertake to respond to inquiries propounded with a view to ascertain whether certain trade-marks have been registered, or, if so, to whom, or for what goods; nor can it give advice as to the nature and extent of the protection afforded by the law, or act as its expounder, except as questions may arise upon applications regularly filed. A copy of these rules with this paragraph marked will be regarded as a courteous answer to all such inquiries.

E. M. MARBLE,
Commissioner of Patents.

Approved.
A. BELL,
Acting Secretary.

FORMS.

The following forms have been prepared to be used in filing applications for registration of trade-marks. Their use is not absolutely required, but as they have been made to conform to the conditions of the law, applicants will find their business facilitated by following them closely.

LETTER OF ADVICE.

To the Commissioner of Patents:

The undersigned presents herewith a fac-simile of his lawful trade-mark and requests that the same, together with the accompanying statement and declaration, may be registered in the United States Patent Office in accordance with the law in such cases made and provided.

A. B.

STATEMENT.

To all whom it may concern:

Be it known that I, A. B.,* a citizen of the United States residing at ——, in the county of——, and State of——, and doing business at——, have adopted for my own use a trade-mark for —— (as the case may be) of which the following is a full, clear, and exact specification:

My trade mark consists of the letters and words (or arbitrary symbols, as the case may be) ——. These have generally been arranged as shown in the accompanying fac-simile. (*Here give a full description of the fac-simile, including all its features.*) But —— may be omitted and —— changed at pleasure without materially altering the character of my trade-mark, the essential features of which are ——.

This trade-mark I have used continuously in my business since ——, 18—.

The class of merchandise to which this trade-mark is appropriated is——, and the particular description of goods comprised in such class on which I use the said trade-mark is——†. It has been my practice to (*here state fully the manner of applying it to the goods or packages containing them.*)

A. B.

Witnesses:
C. D.
E. F.

DECLARATION.

STATE OF——, COUNTY OF——, *ss*:

A. B, being duly sworn, depos s and says that he is the applicant named in the foregoing statement; that he verily believes that the foregoing statement is true; that he has at this time a right to the use of the trade-mark therein described; that no other person, firm, or corporation has the right to such use, either in the identical form or in any such near resemblance thereto as might be calculated to deceive; that it is used by him in commerce with foreign nations or Indian tribes, and particularly with —— (*here name one or more foreign nations or Indian tribes, or both, as the case may be*); and that the description and fac-similes presented for record truly represent the trade-mark sought to be registered.

A. B.

Sworn and subscribed before me, a ——, this —— day of ——, 18—.

G. H., *J. P.*

If the application is made by a firm or corporation, this declaration should be modified accordingly.

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*The first paragraph of the statement should be modified to conform to the circumstances of each applicant. If a firm, the domicile and place of business are required; if a corporation, under what State or other laws incorporated, where located and place of business; if a person not an American citizen, of what country he is a citizen (or subject as the case may be), etc.

†The description of the goods on which the trade-mark is used shou'd be in the same language in the first and last paragraphs of the statement.

REGISTRATION OF PRINTS AND LABELS.

Sections 3, 4, and 5 of the act of Congress relating to patents, trade-marks, and copyrights, approved June 18, 1874 (18 Statutes at Large, p, 78), are as follows:

SEC. 3. That in the construction of this act the words "engraving, cut and print" shall be applied only to pictorial illustrations or works connected with the fine arts, and no prints or labels designed to be used for any other articles of manufacture shall be entered under the copyright law, but may be registered in the Patent Office. And the Commissioner of Patents is hereby charged with the supervision and control of the entry or registry of such prints or labels, in conformity with the regulations provided by law as to copyright and prints, except that there shall be paid for recording the title of any print or label, not a trade-mark, six dollars, which shall cover the expense of furnishing a copy of the record, under the seal of the Commissioner of Patents, to the party entering the same.

SEC. 4. That all laws and parts of laws inconsistent with the foregoing provisions be and the same are hereby repealed.

SEC. 5 That this act shall take effect on and after the first day of August, eighteen hundred and seventy four.

The words "prints" and "labels" as used in this act, so far as it relates to registration in the Patent Office, are construed as synonymous, and are defined as any device, picture, word or words, figure or figures (not a trade-mark) impressed or stamped directly upon the articles of manufacture, or upon a slip or piece of paper, or other material, to be attached in any manner to manufactured articles, or to bottles, boxes, and packages containing them, to indicate the contents of the package, the name of the manufacturer or the place of manufacture, the quality of goods, directions for use, etc.

By the words "articles of manufacture" (to which such print or label is applicable by this act) is meant all vendible commodities produced by hand, machinery, or art.

But no such print or label can be registered unless it properly belongs to an article of commerce, and be as above defined; nor can the same be registered as such print or label when it amounts to a lawful trade-mark, or when its use in connection with the article to which it is applied is arbitrary or fanciful.

To entitle the owner of any such print or label to register the same in this office, it is necessary that five copies of the same be filed, one of which copies shall be certified under the seal of the Commissioner of Patents, and returned to the registrant.

The certificate of such registration will continue in force for twenty-eight years.

The fee for registration of a print or label is six dollars, to be paid in the same manner as fees for patents.

The benefits of this act seem to have been originally confined to citizens or residents of the United States, but appear to be extended to British subjects and citizens of Germany by existing treaties.

E. M. MARBLE,
Commissioner of Patents.

Approved, May 2, 1881.

S. J. KIRKWOOD,
Secretary.

FORM OF APPLICATION FOR REGISTRATION OF PRINTS AND LABELS.

[Making necessary changes to suit each case.]

[For an Individual.]

To the Commissioner of Patents:

The undersigned, A. B., of the city of Brooklyn, county of Kings, and State of New York, and a citizen of the United States (or resident therein, as the case may be), hereby furnishes five copies of a label (or print, as the case may be), to be used for ———, of which he is the sole proprietor. The title of said label (or print) is ———, and the said label (or print) consists of the words and figures as follows, to-wit: ———. (Description.)

And he hereby requests that the said print (or label) be registered in the Patent Office, in accordance with the act of Congress to that effect, approved June 18, 1874.

——— ———,
Proprietor.

Brooklyn, N. Y., *August* 1, 1874.

———

[For a Corporation.]

To the Commissioner of Patents:

The applicant, a corporation created by the authority of the laws of the State of New York (or other authority, as the case may be), and doing business at ———, in said State, hereby furnishes five copies of a label (or print, as the case may be), to be used for ———, of which it is the sole proprietor. The title of said print (or label) is ———, and the said label consists of the words and figures as follows, to-wit: ———. (Description.)

And it is hereby requested that the said label (or print) be registered in the Patent Office, in accordance with the act of Congress to that effect, approved June 18, 1874.

[L. s] Witness the seal of said corporation at ———, ———, 1874.

——— ——— ———,
President [*or other officer*].

NOTE.

The registration of copyright matter is, by law, under the control of the Librarian of Congress at Washington. At the time of the enactment of the trade-mark law of July 8, 1870, it was the custom of the Librarian of Congress to enter, under the provisions of the copyright law, labels and prints of commerce, many of which embraced legal trade-marks. Notwithstanding the existence of a separate statute in 1870 for the registration of trade-marks, the Librarian of Congress, in entering labels and prints of commerce, gave a semblance of protection to many trade-marks, of which the labels and prints entered by him were the mere vehicles. To remedy this difficulty was the object of the amendment to the copyright law of June 18, 1874, referred to herein as the act for the registration of prints and labels. By this amendatory act the Librarian of Congress is restricted, in the registry of copyright matter, to pictorial illustrations or works connected with the fine arts, and is prohibited from registering labels or prints designed to be used for any other articles of manufacture, *i. e.*, articles of commerce. These are now registrable at the Patent Office; while the matter properly coming within the definition of copyright subject-matter, as contained in the act of June 18, 1874, is registrable at the office of the Librarian of Congress.

THE COPYRIGHT SYSTEM.

DIRECTIONS FOR SECURING COPYRIGHTS UNDER THE REVISED ACTS OF CONGRESS.

1. A *printed* copy of the title (besides the two copies to be deposited after publication) of the book, map, chart, dramatic or musical composition, engraving, cut, print, or photograph, or a *description* of the painting, drawing, chromo, statue, statuary, or model or design for a work of the fine arts, for which copyright is desired, must be sent by mail or otherwise, *prepaid*, addressed

LIBRARIAN OF CONGRESS,
Washington, D. C.

This must be done before publication of the book or other article.

The *printed title* required may be a copy of the title page of such publications as have title pages. In other cases, the title must be printed expressly for copyright entry, with name of claimant of copyright. The style of type is immaterial, and the print of a type-writer will be accepted. But a separate title is required for each entry, and *each* title must be printed on paper as large as commercial note. The title of a *periodical* must include the date and number.

2. The legal fee for *recording* each copyright claim is 50 cents, and for a *copy* of this record (or certificate of copyright) an additional fee of 50 cents is required. Certificates covering more than one entry are not issued.

3. Within ten days after publication of each book or other article, two complete copies of the best edition issued must be sent, to perfect the copyright, with the address

LIBRARIAN OF CONGRESS,
Washington, D. C.

The postage must be prepaid, or else the publications inclosed in parcels covered by printed Penalty Labels, furnished by the Librarian, in which case they will come FREE by mail, without limit of weight, according to rulings of the Post Office Department. Without the deposit of copies above required the copyright is void, and a penalty of $25 is incurred. No copy is required to be deposited elsewhere.

4. No copyright is valid unless notice is given by inserting in every copy published, on the title page or the page following, if it be a book; or, if a map, chart, musical composition, print, cut, engraving, photograph, painting, drawing, chromo, statue, statuary, or model or design intended to be perfected as a work of fine arts, by inscribing upon some portion thereof, or on the substance on which the same is mounted, the following words, viz: "*Entered according to act of Congress, in the year——, by———, in the office of the Librarian of Congress, at Washington,*" or, at the option of the person entering the copyright, the words: *copyright*, 18—, *by*———."

The law imposes a penalty of $100 upon any person who has not obtained copyright who shall insert the notice "*Entered according to act of Congress.*" or "*Copyright,*" etc., or words of the same import, in or upon any book or other article.

5. Any author may reserve the right to translate or dramatize his own work. In this case, notice should be given by printing the words "*Right of translation reserved,*" or "*All rights reserved,*" below the notice of copyright entry, and notifying the Librarian of Congress of such reservation, to be entered upon the record.

Since the phrase *all rights reserved* refers exclusively to the author's right to dramatize or to translate, it has no bearing upon any publications except original works, and will not be entered upon the record in other cases.

6. The original term of copyright runs for twenty-eight years. *Within six months before* the end of that time, the author or designer, or his widow or children, may secure a renewal for the further term of fourteen years, making forty-two years in all. Applications for renewal must be accompanied by explicit statement of ownership, in the case of the author or of relationship, in the case of his heirs, and must state definitely the date and place of entry of the original copyright. Advertisement of renewal is to be made within two months of date of renewal certificate, in some newspaper, for four weeks.

7. The time within which any work entered for copyright may be issued from the press is not limited by any law or regulation, but depends upon the discretion of the proprietor. A copyright may be secured for a projected work as well as for a completed one. But the law provides for no *caveat*, or notice of interference—only for actual entry of title.

8. A copyright is assignable in law by any instrument of writing, but such assignment must be recorded in the office of the Librarian of Congress within sixty days from its date. The fee for this record and certificate is one dollar, and for a certified copy of any record of assignment one dollar.

9. A copy of the record (or duplicate certificate) of any copyright entry will be furnished, under seal, at the rate of fifty cents each.

10. In the case of books published in more than one volume, or of periodicals published in numbers, or of engravings, photographs, or other articles published with variations, a copyright is to be entered for each volume or part of a book, or number of a periodical, or variety, as to style, title, or inscription, of any other article. But a book published serially in a periodical, under the same general title, requires only one entry. To *complete* the copyright on such a work, two copies of each serial part, as well as of the complete work if published separately), must be deposited.

11. To secure a copyright for a painting, statue, or model or design intended to be perfected as a work of the fine arts, so as to prevent infringement by copying. engraving, or vending such design, a definite description must accompany the application for copyright, and a photograph of the same, at least as large as "cabinet size," should be mailed to the Librarian of Congress withinten days from the completion of the work or design.

12. Copyrights cannot be granted upon trade-marks, nor upon mere names of companies or articles, nor upon prints or labels intended to be used with any article of manufacture. If protection for such names or labels is desired, application must be made to the Patent Office, where they are registered at a fee of $6 for labels and $25 for trade-marks.

13 Citizens or residents of the United States only are entitled to copyright.

14 Every applicant for a copyright should state distinctly the full name and residence of the claimant and whether the right is claimed as author, designer, or proprietor. No affidavit or formal application is required.

THE POST-OFFICE DEPARTMENT.

Every citizen of the United States is directly and personally interested in this department. There are vast numbers of people who never come in contact with the General Government in any other way than through the local post-office. The increase of business in this branch of the administration and the extension of the mail service from year to year is enormous, and supplies a safe criterion by which to estimate the growing wealth and prosperity of the country.

At the close of the last fiscal year, ended June 30, 1886, there were in operation throughout the United States 22,799 routes of all classes on which mail service was maintained by the Department at an annual rate of expenditure on that day of $29,026,658. This is a very large sum, but when it is considered that these routes aggregate in the star, steamboat, mail-messenger, special and railway service 387,586 miles in length, on which there was an annual travel of 258,788,065 miles, more than 10,000 times the circuit of the globe, penetrating to the remotest sections of the country, and on which the mails were carried to every city, town, and hamlet, to every home and mining camp, and by every means of conveyance, from a railroad train speeding at the rate of forty miles an hour to the Indian carrier on his snow shoes picking his cautious way among the avalanches of the Sierras, and with an average frequency of 6.42 trips per week, the magnitude of this sum will not appear out of proportion to the magnitude of the service.

While these figures give an adequate conception of the range and extent of the service, to those unfamiliar with the operations of that service, the word "mail" conveys but an imperfect idea of the weight and volume of the matter carried. This weight and volume are to be equally regarded with the distance, in judging of the relation of the cost to the service. There are no means available at present of ascertaining the weight of the mail matter carried on steamboats and on the star routes, as contracts are made in these two branches of the service without regard to weight or volume of mail; but on the 30th of last June the records in the Post-Office Department show that on that day there were carried on all the railroads in the United States 3,246,431 pounds, or 1,623 tons, of mail matter. It is true that a very large part of this weight passes over more than one route, and is therefore counted more than once; but under the act of 1873 weight constitutes the gauge of payment of railroad transportation, and these figures, therefore, enable us to form an es-

timate sufficiently approximate of the enormous amount of matter daily transported over all the mail routes in the United States.

Here, as in other Departments, the matter of prime importance to persons having business relations with the Government is to begin in the right way. Many who are seeking mail contracts are disappointed and complain of injustice when their want of success is often due to their own fault. Many bids are rejected simply because the bidders fail to comply *specifically* with the "Instructions to Bidders and Postmasters," published below. If these instructions are not strictly followed in every instance a bid will not be considered, but will be rejected on account of informality, whatever may be its merits.

The principal reasons for which proposals for carrying the mail are rejected are:

1. Failure to have at least two sureties.

2 Failure of the bidder to take and subscribe the oath required by law.

3. Failure of the sureties to answer under oath as to the value of their property, and to give a description of the real estate and where the title is recorded.

4. Insufficient value of real estate owned by the sureties.

5. Erasures in any material part of the bid or bond, unless the erasures were made before the bond was signed, as shown in a note on the blank form.

6. Insufficient amount of bond, which amount is in every instance specially stated under the routes in the advertisement.

7. Failure of the sureties to swear that they are worth, in real estate, over and above all incumbrances, double the amount of the bond.

8. Failure to affix a scroll or seal after each name signed to the bond.

9. Another reason why bids are sometimes rejected is, the neglect of the bidder to sign the bond.

INSTRUCTIONS TO BIDDERS AND POSTMASTERS,

Containing also conditions to be incorporated in the contracts to the extent the Department may deem proper.

The Postmaster-General warns bidders and their sureties to acquaint themselves fully with the laws of Congress relating to contracts for the carrying of the mails (the important provisions of which are cited herein), and also to familiarize themselves with the instructions and forms herein furnished, before they shall assume any liabilities as such bidders or sureties, and to prevent misapprehension or cause of complaint thereafter.

Postmasters are required to make themselves familiar with the laws and these instructions, that they may be able to inform and direct others.

1. Seven minutes are allowed to each intermediate office, when not otherwise specified, for assorting the mails.

2. On routes where the mode of conveyance admits of it, the post-office inspectors of the Post Office Department, also post-office blanks, mail-bags, locks, and keys, are to be conveyed without extra charge.

3. "Way bills" or receipts, prepared by postmasters or other agents of the Department, will accompany the mails, specifying the number and destination of the several bags, to be examined by the postmasters, to insure regularity in the delivery of the bags and pouches

4. No pay will be made for trips not performed; and for each of such omissions, if the failure be occasioned by the fault of the contractor or carrier, three times the pay of the trip may be deducted. For arrival so far behind time as to break connection with depending mails and not sufficiently excused, one-fourth of the compensation for the trip is subject to forfeiture. For repeated delinquencies of the kind herein specified, enlarged penalties, proportioned to the nature thereof and the importance of the mail, may be made.

5. For leaving behind or throwing off the mails, or any portion of them, for the admission of passengers, or for being concerned in setting up or running an express conveying intelligence in advance of the mail, not to exceed a quarter's pay may be deducted.

6. Fines will be imposed, unless the delinquency be promptly and satisfactorily explained by certificates of postmasters or the affidavits of other credible persons, for failing to arrive in contract time; for neglecting to take the mail from, or deliver it into, a post-office; for suffering it to be wet, injured, destroyed, or for refusing, after demand, to convey the mail as frequently as the contractor runs, or is concerned in running, a coach, car, or other vehicle, a steamboat or other vessel, on a route; and for the loss of, or depredation upon, a mail pouch in the custody of the contractor, a penalty may be imposed in a sum not to exceed one and one-fourth times the value of the contents lost thereby: *Provided*, That the loss is occasioned by the fault of the contrator or his agent.

7. The Postmaster-General may annul the contract for repeated failures to run agreeably to contract; for assigning the contract; for violating the postal laws or regulations, or disobeying the instructions of the Department; for refusing to discharge a carrier when required by the Department to do so; for running an express as aforesaid; or for transporting persons or packages conveying mailable matter out of the mail.

8. The Postmaster-General may order an increase of service on a route by allowing therefor not to exceed a *pro rata* increase on the contract pay. He may change schedules of departures and arrivals in all cases, and particularly to make them conform to connections with railroads, without increase of pay, provided the running time be not abridged. The Postmaster-General may also discontinue, change, or curtail the service, in whole or in part, in order to place on the route superior service, or whenever the public interests, in his judgment, shall require such discontinuance or curtailment for any other cause; he allowing, as full indemnity to contractor, *one month's extra pay* on the amount of service dispensed with, and not to exceed *pro rata* compensation for the amount of service retained and continued, but the Postmaster General reserves the right to rescind any acceptance of a proposal at any time before the signing on behalf of the United States of the formal contract, *without the allowance of any indemnity to the accepted bidder.*

9. The Postmaster General may extend the service as provided in the act of August 3, 1882, which is as follows: "The Postmaster General is hereby authorized, in cases where the mail service would be thereby improved, to extend service on a mail route under contract, at not exceeding *pro rata* additional pay, for any distance not exceeding twenty-five miles beyond either terminal point named in said contract: *Provided*, That no service shall be extended beyond the original terminal points more than once during the term for which the contract shall have been made." He may also continue a contract in force for any period not exceeding six months *beyond its expressed term.*

10. Payments will be made by drafts on postmasters or otherwise after the expiration of each quarter—say in November, February, May, and August, or as soon thereafter as accounts can be stated and settled—provided that required evidence of service has been received.

11. The distances given are believed to be substantially correct; but no increased pay will be allowed should they be greater than advertised, if the points to be supplied are correctly stated. *Bidders must inform themselves on this point*, and also in reference to the weight of the mail, the condition of hills, roads, streams, gulfs, estuaries, etc., and all toll-bridges, turnpikes, plank-roads, ferries, or obstructions of any kind by which expense may be incurred. No

claim for additional pay, based on such ground, can be considered; nor for alleged mistakes or misapprehension as to the frequency of service; nor for bridges destroyed, ferries discontinued, change of roads by local authorities, fencing of farms which causes the service to be performed on section lines, or other obstructions causing or increasing distance or expense occurring during the contract term. Offices established after this advertisement is issued, and also during the contract term, are to be visited without extra pay, if the distance be not increased.

12. Bidders are cautioned to mail their proposals in time to reach the Department by the day and hour named in the advertisement, as bids received after that time *will not be considered* in competition with bids of reasonable amount received in time. Neither can bids be considered which are without the bond, oath, and certificate required by section 245, act of June 23, 1874, and section 246, act of August 11, 1876.

13. Bidders should state in their proposals the service bid for strictly according to this advertisement, regardless of any changes made in the present service.

14. There should be but one route bid for in a proposal. Consolidated or combination bids ("proposing one sum for two or more routes") cannot be considered.

15. The route, the service, the yearly pay, the name and residence of the bidder (that is, his usual post-office address), and the name of each member of a firm where a company bids, should be distinctly stated.

16. Bidders are requested to use the printed proposals furnished by the Department, to write out in full the sum of their bids, and to retain copies of them.

17. Bids altered in the route, the service, the yearly pay, the name of the bidder, or any material part of the bond, by erasures or interlineations, should not be submitted; and if so submitted will not be considered in awarding the contracts. No withdrawal of a bid will be allowed unless the withdrawal is received twenty-four hours previous to the time fixed for opening the proposals.

18. In case of failure of the accepted bidder to execute a contract, or of the abandonment of service during the contract term, the service will be relet at the expense of the failing bidder or contractor, and any accepted bidder who shall wrongfully refuse or fail to enter into contract in due form, and to perform the service described in his proposal, may be deemed guilty of a misdemeanor, and, on conviction thereof, be fined and imprisoned therefor.

19. The Postmaster General reserves the right to suspend the award of service on any route for a period not exceeding thirty days after the date set in this advertisement, with a corresponding allowance of the time for the execution of the contract, and to reject all bids on any route whenever in his judgment the interests of the service require it, and also to disregard the bids of failing contractors and bidders.

20. No contract for carrying the mail shall be made with any person who has entered, or proposed to enter, into any combination to prevent the making of any bid for carrying the mail, or who has made any agreement, or given or performed, or promised to give or perform, any consideration whatever to induce any other person not to bid for any such contract.

21. No bidder for carrying the mails shall be released from his obligation under his bid or proposal, notwithstanding an award made to a lower bidder, until a contract for the designated service shall have been duly executed by such lower bidder and his sureties, and accepted, and the service entered upon by the contractor to the satisfaction of the Postmaster-General.

22. By regulation of the Department, no carrier can be employed who is under sixteen years of age; and no bidder will be excepted who is under twenty-one years of age, or who is a married woman.

23 Every proposal must be accompanied by a bond with two or more sureties approved by a postmaster, and in cases where the amount of the bond exceeds five thousand dollars ($5,000) by a postmaster of the first, second, or third class. Bids for service, the pay of which at the time of advertisement exceeds five thousand dollars ($5,000), must be accompanied by a certified check, or draft, payable to the order of the Postmaster-General, on some solvent national bank, of not less than five per centum on the amount of the annual pay on such route, and in case of new or modified service, not less than five per centum of the

bond accompanying the bid, if the amount of said bond exceeds five thousand dollars ($5,000).

24. The amount of bond required with bid and the amount of check when required are stated in the advertisement under the appropriate route.

25. Sureties on the bond of a bidder must take an oath before an officer qualified to administer oaths that they are the owners of real estate worth, in the aggregate, a sum double the amount of said bond, over and above all debts due and owing by them, and all judgments, mortgages, and executions against them, after allowing all exemptions of every character whatever.

A married woman will not be accepted as surety, either on the bond of a bidder or upon a contract.

Accompanying the bond of a bidder, and as a part thereof, shall be a statement of the sureties, under oath, showing the amount of real estate owned by them, a brief description thereof and its probable value, where it is situated, and in what county and State the record-evidence of their title exists. Any surety who swears falsely to this required statement is deemed by the law guilty of perjury, and is punishable as is prescribed by law for that crime.

26. All checks deposited with bids will be held until contract is executed and *the service commenced* by the accepted bidder. *Checks will then be returned by mail to the bidders at the addresses stated in their proposals, unless otherwise requested by bidders.*

27. *The contracts are to be executed and filed in the Department within sixty days from the date of acceptance of the bid, otherwise the accepted bidder will be considered as having failed, and the Postmaster-General may proceed to contract for the service with other parties, according to law.*

28. Assignments of contracts, or of interest in contracts, are forbidden by law, and consequently cannot be allowed. Neither can bids nor interest in bids be transferred or assigned to other parties. Bidders will therefore take notice that they will be expected to perform the service awarded to them through the whole contract term.

29. Section 3949, Revised Statutes, provides that contracts for the transportation of the mail shall be "awarded to the lowest bidder tendering sufficient guarantees for faithful performance, without other reference to the mode of such transportation than may be necessary to provide for the due celerity, certainty, and security thereof." Under this law bids that propose to transport the mails with "*celerity, certainty and security,*" *having been decided to be the only legal bids, are construed as providing for the entire mail, however large, and whatever may be the mode of conveyance necessary to insure its "celerity, certainty, and security," and have the preference over all others,* and no others are considered, except for steamboat routes.

30. Foreign mails in transit across the territory of the United States shall, within the meaning of this advertisement, be deemed and taken to be mails of the United States.

31. On routes where steamboat service is required, the contractor will be required to furnish steamboats which are safe, suitable, and satisfactory to the Postmaster-General.

32. On steamboat routes the Postmaster-General may increase the service or change the schedule, he allowing a *pro rata* increase of compensation within the restrictions imposed by law for the additional service required; but the contractor may, in case of increased service, relinquish the contract on timely notice, if he prefers it to the change. Also, that the Postmaster-General may curtail or discontinue the service in whole or in part, he allowing one month's extra pay on the amount dispensed with; and the contractor will be required to deliver and receive the mails at the terminal offices without regard to the distance (provided the Department has not previously assumed that duty by regulation-wagon service), and also at all the intermediate offices now established or that may be hereafter established on either bank of the river, sound, inlet, bay, or the coast line along which the service is performed, provided said offices are located not over one-quarter of a mile from the landing, and also to deliver and receive at the landing the mails for other offices which are or may be established at a greater distance, or for routes diverging from the landings where the Department has or may provide contract or messenger service or at as many of said offices or landings as may be required by the Department.

33. If the R. P. O. clerks are placed on the steamboats they will have entire charge of the mails and all mail matter, and the contractor will be required to

fit up on each steamboat employed in the service, and as near alike in arrangement as possible, a room suitable for a post-office, with a sleeping apartment attached thereto, for the exclusive use of the R. P. O. clerk, and to furnish first-class board to said clerk while on duty or en route. In case there be no R. P. O. clerk appointed by the Department, an officer of the steamboat must be duly sworn as provided by the act of March 5, 1874, and have custody of and attend to the receipt and delivery of the mails.

34. A modification of a bid in any of its essential terms is tantamount to a new bid, and cannot be received so as to interfere with regular competition. Making a new bid in proper form is the only way to modify a previous one.

35. ☞ Postmasters are cautioned, under penalty of removal, not to sign the approval of the bond of any bidder before the proposal is completed and the bond is signed by the bidder and his sureties, and not until entirely satisfied of the sufficiency of the sureties.

They are also cautioned not to divulge to any one the amount of any proposal certified by them. Doing so will be sufficient cause for their removal.

36. No postmaster, assistant postmaster, or clerk employed in any post-office shall be a contractor or concerned in any contract for carrying the mail.

37. Postmasters are also liable to dismissal from office for acting as agents of contractors or bidders, with or without compensation, in any business, matter, or thing relating to the mail service. They are the trusted agents of the Department, and cannot consistently act in both capacities.

In case the route is not fully supplied with pouches, locks, and keys, requisition must be made upon the Second Assistant Postmaster-General for the same before the date of beginning service.

SUBCONTRACTS.

By act of Congress of May 17, 1878, the following provisions are made relative to subletting of mail contracts:

SEC. 2. Hereafter no subletting or transfer of any mail contracts shall be permitted without the consent, in writing, of the Postmaster-General; and whenever it shall come to the knowledge of the Postmaster-General that any contractor has sublet or transferred his contract, except with the consent of the Postmaster-General as aforesaid, the same shall be considered as violated and may be again advertised as herein provided for; and the contractor and his securities shall be liable on their bond to the United States for any damage resulting to the United States in the premises.

SEC. 3. Hereafter, when any person or persons, being under contract with the Government of the United States for carrying the mails, shall lawfully sublet any such contract, or lawfully employ any other person or persons to perform the service by such contractor agreed to be performed, or any part thereof, he or they shall file in the office of the Second Assistant Postmaster-General a copy of his or their contract; and thereupon it shall be the duty of the Second Assistant Postmaster-General to notify the Auditor of the Treasury for the Post Office Department of the fact of the filing in his office of such contract. Said notice shall embrace the name or names of the original contractor or contractors, the number of the route or routes, the name or names of the subcontractor or subcontractors, and the amount agreed to be paid to the subcontractor or subcontractors. And upon the receipt of said notice by the Auditor of the Treasury for the Post Office Department, it shall be his duty to retain, out of the amount due the original contractor or contractors, the amount stated in said notice as agreed to be paid to the subcontractor or subcontractors, and shall pay said amount, upon the certificate of the Second Assistant Postmaster-General, to the subcontractor or subcontractors, under the same rules and regulations now governing the payments made to original contractors; *Provided*, That upon satisfactory evidence that the original contractor or contractors have paid off and discharged the amount due under his or their contract to the subcontractor or subcontractors, it shall be the duty of the Second Assistant Postmaster-General to certify such fact to the Auditor of the Treasury for the Post Office Department; and thereupon said Auditor shall settle with the original contractor or contractors, under the same rules as are now provided by law for such settlements.

Contractors must in all cases secure the permission of the Postmaster-General before making a subcontract on any route. The application to sublet must be made separately for each route, specifying the number and terminal points thereof.

Subcontracts executed and filed in accordance with the provisions of the act of May 17, 1878, will be subject also to the act of May 4, 1882, which is as follows: "That whenever any contractor or subcontractor shall sublet his contract for the transportation of the mail on any route for a less sum than that for which he contracted to perform the service, the Postmaster-General may, whenever he shall deem it for the good of the service, declare the original contract at an end, and enter into a contract with the last subcontractor, without advertising, to perform the service on the terms at which the last subcontractor agreed with the original contractor or former subcontractor to perform the same: *Provided*, That such last subcontractor shall enter into a good and sufficient bond, and that the original contractor shall not be released from his contract until a good and sufficient bond has been made by such last subcontractor and accepted by the Post Office Department: *Provided further*, That when a contract hereafter made is declared void on account of its having been sublet, the contractor shall not be entitled to one month's extra pay as provided for by law. *And provided further*, That if any person shall hereafter perform any service for any contractor or subcontractor in carrying the mail, he shall, upon filing in the Department his contract for such service, and satisfactory evidence of its performance, thereafter have a lien on any money due such contractor or subcontractor for such service to the amount of the same; and if such contractor or subcontractor shall fail to pay the party or parties who have performed service as aforesaid the amount due for such service within two months after the expiration of the quarter in which such service shall have been performed, the Postmaster-General may cause the amount due to be paid to said party or parties and charged to the contractor, provided that such payment shall not in any case exeed the rate of pay per annum of the contractor or subcontractor: *And provided further*, That where any person, corporation, or partnership shall have contracts for the performance of mail service upon more than one route, any failure to perform the service according to contract on any one or more of such routes shall occur, no payment shall be made for service on any of the routes under contract with such person, corporation, or partnership until such failure has been removed and all penalties therefor fully satisfied.

CONDITIONS OF PERMISSION TO SUBLET.

1. The subcontract must be executed for service upon the whole route, and for a period not less than one year, or for the balance of the contract term when less than one year, and it must be filed by the contractor in the office of the Second Assistant Postmaster-General within thirty days after the time when service is to begin under it.

2. The subcontractor must be a resident of a locality upon or contiguous to the route.

3. The subcontract must be executed in the form prescribed by the Postmaster-General in blank No. 2075, and must specify the rate to be paid *per annum* under it, in case the service shall be changed; must stipulate that the subcontractor shall assume liability for fines and deduction, and that he shall receive *pro rata* of the *one month's extra pay* allowed contractor for curtailment, reduction, or discontinuance of service.

4. None of the stipulations of the subcontract (Form No. 2075) are to be eliminated therefrom, and no collateral stipulations of any character whatever are to be added thereto.

The execution of a subcontract on any route without permission, or, if after permission, in violation of these instructions, renders the original contract liable to annulment.

When a route is sublet to a party living at an intermediate point, or at the foot of the route, the schedule will not be changed unless an investigation shall show that a change will be an improvement on the existing schedule.

Neither the permission to sublet, nor the recognition of the subcontract made in pursuance thereof, shall be construed as releasing the contractor from any of the obligations of his contract with the United States. See section 3963, Revised Statutes.

The word "transfer," as used in section 2 of the law above quoted, is declared to be synonymous with sublet, and does not permit in any case the absolute transfer of a mail contract.

By a decision of the Attorney-General, the provisions of this law are applicable to all mail contracts.

The evidence of payment of a subcontractor by a contractor, provided for in section 3, must be the receipt of the subcontractor, attested by a postmaster at a terminus of the route sublet, on a form furnished by the Office of the Second Assistant Postmaster General.

A subcontractor may avail himself of the benefits of the laws and receive payment from the Post-Office Department direct, by filing a copy of his subcontract in the Office of the Second Assistant Postmaster-General, furnishing therewith his post-office address. No subcontractor can be paid by the Department for service at a greater rate than that named in the original contract.

The copy of subcontract filed must be certified to be a true copy of the original by a postmaster at one of the termini of the route therein sublet.

No subcontract can be recognized unless made with the original contractor.

PROPOSALS.

☞Proposals altered by erasure or interlineation of the route, the service, the yearly day, or the name of the bidder, will not be considered.

FORM OF PROPOSAL, BOND, AND CERTIFICATE.

PROPOSAL.

The undersigned, ——— ———, whose post-office address is ———, county of ———, State of ———, proposes to carry the mails of the United States, from July 1, 1887, to June 30, 18—, on route No. ——, between ——— and ———, State of ———, under the advertisement of the Postmaster-General, dated January 24, 1887, "with celerity, certainty, and security," for the sum of ——— dollars per annum; and if this proposal is accepted, he will enter into contract, with sureties to be approved by the Postmaster-General, within sixty days after date of acceptance.

This proposal is made with full knowledge of the distance of the route, the weight of the mail to be carried, and all other particulars in reference to the route and service; and, also, after careful examination of the laws and instructions attached to advertisement of mail service.

Dated ———, 1887. ——— ———, *Bidder.*

Oath required by section 245 *of an act of Congress approved June* 23, 1874, *to be affixed to each bid for carrying the mail, and to be taken before an officer qualified to administer oaths.*

I, ——— ———, of ———, bidder for carrying the mail on route No. ——, from ——— to ———, do swear that I have the ability, pecuniarly, to fulfill my obligation as such bidder; that the bid is made in good faith, and with the intention to enter into contract and perform the service in case said bid shall be accepted.

——— ———.

Sworn to and subscribed before me, ——— ———, for the —— of ———, this —— day of ———, A. D. 1887, and in testimony whereof, I hereunto subsc ibe my name and affix my official seal the day and year aforesaid.

[SEAL.] ——— ———,

——— ———.

NOTE.—When the oath is taken before a justice of the peace, or any other officer not using a seal, except a judge of the United States court, the certificate of the clerk of a court of record must be added, under his seal of office, that the person who administered the oath is duly qualified as such officer,

☞Bids must be accompanied by a certified check, or draft, on some solvent national bank, payable to the order of the Postmaster-General, equal to 5 per centum on the present annual pay on the route when the present pay exceeds $5,000; or in case of new service, not less than 5 per centum of the amount of the bond accompanying the bid, if said bond exceeds $5,000.

The proposal must be *signed* by the bidder or bidders, and the date of signing affixed.

Direct to the "Second Assistant Postmaster General, Post-Office Department, Washington, D. C.," marked "Proposals, State of ———."

NOTE.—ANY ALTERATION BY ERASURE OR INTERLINEATION OF A MATERIAL PART OF THE FOLLOWING BOND WILL CAUSE IT TO BE REJECTED, unless it appears by a note or memorandum, attested by the witnesses, that the alteration was made before the bond was signed and sealed.

When partners are parties to the bond the partnership name should not be used, but each partner should sign his individual name.

☞Insert the names of the principal and sureties in full in the body of the bond; also the date. The signatures to the bond should be witnessed, and each signature must be opposite a separate seal.

BOND.

Know all men by these presents, that—— ——, of ——, in the State of ——, principal, and —— —— and —— ——, of——, in the State of ——, as sureties, are held and firmly bound unto the United States of America in the just and full sum of —— dollars, lawful money of the United States, to be paid to the said United States of America or its duly appointed or authorized officer or officers; to the payment of which, well and truly to be made and done, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seals, and dated this —— day of ——, 1887

Whereas, by an act of Congress approved June 23, 1874, entitled "An act making appropriations for the service of the Post Office Department for the fiscal year ending June thirtieth, eighteen hundred and seventy-five, and for other purposes," it is provided "that every proposal for carrying the mail shall be accompanied by the bond of the bidder, with sureties approved by a postmaster;" in pursuance whereof, and in compliance with the provisions of said law, this bond is made and executed, subject to all the terms, conditions, and remedies thereon in the said act provided and prescribed, to accompany the aforegoing and annexed proposal of the said —— ——:

Now, the condition of the said obligation is such, that if the said bidder, as aforesaid, shall, within such time after his bid is accepted as the Postmaster-General has prescribed in said advertisement, to wit, within sixty days after date of acceptance of the bid, enter into a contract with the United States of America, with good and sufficient sureties to be approved by the Postmaster-General, to perform the service proposed in his said bid, and further shall perform said service according to his contract, then this obligation shall be void; otherwise, to be in full force and obligation in law.

In witness whereof we have hereunto set our hands and seals this —— day of ——, 1887.

—— ——. [SEAL.]
—— ——. [SEAL.]
—— ——. [SEAL.]
—— ——. [SEAL.]

Witness:

—— ——.
—— ——.

NOTE.—A MARRIED WOMAN WILL NOT BE ACCEPTED AS SURETY.

INTERROGATORIES.

The following interrogatories are prescribed by the Postmaster General, to be answered under oath by each of the sureties in the aforegoing bond, and no bid will be considered in which these interrogatories are not fully and satisfactorily answered:

1. What amount in value of real estate is owned by you?
2. Of what description, town or city lots, improved or unimproved; or farming land, cultivated or uncultivated?
3. Where is it situated?
4. In what county and State does record-evidence of your titles exist?

Especial attention is called to the interrogatories to be fully answered below.

OATH OF SURETIES.

STATE OF ——, COUNTY OF ——, *ss:*

On this —— day of ——, 1887, personally appeared before me —— —— and —— ——, sureties in the aforegoing bond, to me known to be the persons named in said bond as sureties, and who have executed the same as such who, being by me duly sworn, depose and say, and each for himself deposes and says, he has executed the within bond; that his place of residence is correctly stated therein; that he is the owner of real estate worth the sum hereinafter set against his name over and above all debts due and owing by him, and all judgments, mortgages, and executions against him, after allowing all exemptions of every character whatever, the total sum thus assured

amoun ing to ($——) —— dollars, being double the amount of the aforegoing bond.

And in answer to the aforegoing interrogatories each of the said sureties further d/poses and says that the value, description, location, and place of record-evidence of the title of his real estate is as follows:

Names of sureties.	Value of real estate. (Answer to interrogatory No. 1.	Description of real estate. (Answer to interrogatory No. 2.)	County and State where located. (Answer to interrogatory No. 3.)	County and State where record evidence of title is. (Answer to inter ogatory No. 4.)
	$			
	$			

Sureties sign here {——— ———.
{——— ———.

Subscribed and sworn before me this —— day of ——, 1887.

———— ————,
————— ————.

NOTE.—When the above oath is taken before a justice of the peace or any other officer not using a seal, except a judge of a United States court, the certificate of the clerk of a court of record must be added, under his seal of office, that the person who administered the oath is duly qualified as such officer. If the oath is taken before a notary public and his seal is affixed, the certificate of the clerk of a court is not necessary.

CERTIFICATE OF POSTMASTER.

I, the undersigned, postmaster at ———, State of ———, after the exercise of due diligence to inform myself of the pecuniary ability and responsibility of the principal and his sureties in the aforegoing bond, and of the unincumbered real estate owned by them respectively, do hereby approve said bond, and certify that the said sureties are sufficient—sufficient in my belief to insure the payment of double the entire amount of the said bond; and I do further certify that the said bond was duly signed by ——— ———, bidder, and ——— ———, and ——— ———, his sureties, before signing this certificate.

——— ———, *Postmaster.*

Dated ———, 1887.

NOTE.—Postmasters must not, under penalty of removal, sign the above certificate before the proposal is completed and the bond is signed by the bidder and his sureties. It will also be cause for removal if a postmaster shall divulge the amount of any bid certified by him.

Blank forms of proposal, bond, and certificate to be had on application to the Second Assistant Postmaster-General.

Bids should be sent in sealed envelopes, superscribed: "Mail Proposals, State of ———, ——— ———, and addressed to the Second Assistant Postmaster General.

WM. F. VILAS,
Postmaster-General.

THE DEAD LETTER OFFICE.

This office was erected into an independent bureau in 1886. The official in charge is known as "Superintendent of the Dead Letter Office." This office is the receptacle of all mailed matter which fails to reach the party for whom it was intended. Sometimes matter which is not transportable by mail is dropped in the box at the local post-office. This goes direct to the Dead Letter Office, and not to the party addressed. With regard to matter which is mailable, there are many obvious reasons why it fails to reach the person for whom it was intended. The party addressed may have changed his residence ; there may have been an error in the direction ; the writing may not be legible, etc., etc.

The business of this Bureau requires the services of 110 employees.

The last report (1886) shows that :

In the treatment of the matter received at the Dead Letter Office there were 61,348 card and request letters delivered unopened.

The held-for postage letters addressed to Canada and forwarded unopened from the Dead-Letter Office, upon the receipt of the postage, numbered 4,371.

The misdirected letters forwarded unopened upon correction of addresses showed an increase of 10,368, or 15 per cent. over the number forwarded during the previous year.

In the letters opened in the Dead Letter Office there was a decrease from the number opened during the previous year of 31,549, or less than 1 per cent.

The number of opened letters restored to owners was 2,103,243.

The number of letters containing nothing of value and which it became necessary to destroy for want of any clew for their restoration was 2,053,929.

The number of letters received at the Dead Letter Office inclosing money was 15,911, and the amount contained therein was $23,130.41 in amount.

The number of letters received which contained money-orders, notes, checks, and other evidences of monetary value, was 19,-483. The nominal value represented was $1,240,506.89.

The number of letters containing receipts, paid notes, and other papers of minor value was 32,033.

The number containing photographs was 30,773.

The number of letters containing articles of merchandise together with the parcels of third and fourth class matter sent to the Dead Letter Office during the year was 92,196.

The number of letters inclosing money which were restored to their owners during the year was 12,138, containing $21,732.41, being 76 per cent. of the total number of letters received, and 77 per cent. of the total values inclosed.

Of the letters inclosing money-orders, notes, drafts, etc., 18,105, containing a representative value of $1,121,151.74, were restored to the owners; and these were 93 per cent. of the total number and 90 per cent. of the total value received.

The number of letters containing receipts, paid notes, etc., restored to owner was 28,135, or 87 per cent. of the total received; the number containing photographs was 25,835, or 83 per cent. of the total received; and the number containing postage stamps was 92,228, or 95 per cent. of the total received.

The number of parcels of third and fourth class matter restored to owner during the year was 39,443, or 42 per cent. of the total received.

The small proportion of this class of matter restored is due to the neglect of the senders to avail themselves of the right to indorse upon the cover of the parcel their name and address, so that when they reach the Dead Letter Office, upon failure to find the addresses, there is no clew whatever to the sender.

Of the 4,164,602 sealed letters opened in the Dead Letter Office during the year, 208,316, or 5 per cent., contained other inclosures, and were made matters of record.

The statistics afforded by the foregoing statements and by the tables hereto appended are worthy of close examination.

Letters are first examined to see if they can be sent back unopened If this cannot be done they are opened, and, if the matter gives the clew, they are returned to the sender. Letters containing money are filed and the money deposited subject to the order of the owner for four years, after the expiration of which time they are covered into the Treasury, and an act of Congress is necessary to enable the owner to draw it out. If letters contain no enclosures they are returned at once if the name of the sender can be ascertained from the letter. If an enclosure is contained, it is recorded under the proper head and restored to the owner. If the owner cannot be ascertained, it is filed to await reclamation, and if not reclaimed within two years it is sold at public auction. The number of unclaimed packages sold at the last auction amounted to 7,326 Some notion of the amount of business transacted at this office may be obtained from the fact that nearly 16,000 unclaimed letters are received, on an average, each day.

THE FOLLOWING STATEMENT IS PUBLISHED FOR THE INFORMATION OF VISITORS TO THE DEAD LETTER OFFICE, AND OTHERS INTERESTED IN THE SUBJECT.

The whole number of letters received during last year was 4,843,099, or an average of 15,673 for each working day. Of these, 3,719,380 were sent here because they were not called for at the post offices to which they were directed;

112,648 were returned to post offices by hotel keepers and thence sent to the Dead Letter Office because the departed guests for whom they were intended failed to leave a new address; 122,586 were sent here because they were insufficiently prepaid for mailing; 1,797 because they contained articles forbidden to be transported in the mails; 314,719 because they were erroneously or illegibly addressed; while 14,134 bore no superscription whatever. The number of parcels of merchandise, books, clothing, needlework, jewelry, etc., received during the year was 69,637. The total number of dead letters and samples of merchandise which were mailed abroad was 477,198. These are all returned to their respective countries of origin unopened. Of the domestic letters opened, 17,387 contained money amounting to $33,770.17; 20,204 contained drafts, checks, money orders, etc., to the amount of $1,576,948.13; 84,088 contained postage-stamps; 34,399 contained receipts, paid notes, and canceled obligations of all sorts; 38,348 contained photographs; and 25,554 contained articles of merchandise.

Every letter and package is delivered to the owner if possible. Misdirected letters are sent unopened to the persons addressed, if practicable. Of these, 62,834 domestic, and 12,070 foreign were so delivered during the past year.

Letters and parcels which cannot be delivered to the persons addressed are opened, and, if it is feasible, restored to the senders, the former free of charge, and the latter upon payment of the return postage.

Every opened letter containing an inclosure of value is carefully recorded, and those for which no owner can be found are filed away subject to reclamation at any time. Letters without remittances of obvious value are not recorded, but are returned to the writers if practicable; otherwise they are destroyed.

A large proportion of the most valuable parcels sent here is addressed to foreign countries and detained because they contain dutiable goods or exceed the limit of size or weight. In all such cases, if the name of the sender does not appear, the addressees are notified that the package will be forwarded by express at their expense, or returned to the sender if they will furnish the proper address in this country.

The articles received in parcels which can neither be delivered to the person addressed nor returned to the sender are finally sold at auction and the proceeds deposited in the U. S. Treasury.

Letters are only read to ascertain the name and address of the writer, or to see if anything which was originally inclosed is missing. Information obtained from letters in the course of their official treatment in the Dead Letter Office is never divulged.

SUGGESTIONS TO THE PUBLIC.

WRITE OR PRINT YOUR NAME AND ADDRESS, and the contents, if a package, upon the *upper left-hand corner of all mail matter*. This will insure its immediate return to you for correction, if improperly addressed or insufficiently paid; and if it is not called for at destination, it can be returned to you without going to the Dead Letter Office. If the patrons of the mails would avail themselves of this privilege it would enable the Department to restore to the sender at least 90 per cent. of all the undelivered matter. Letters would be returned free, and parcels upon payment of the return postage. REGISTER ALL VALUABLE LETTERS AND PACKAGES. Registry fee, ten cents, which, with the postage, must be fully prepaid. The name and address of the sender must be given on the outside of the envelope or wrapper of all registered articles.

In sending newspapers, books, pamphlets, and other articles by mail to foreign countries, or to distant points within the United States, the address should always be placed *on the articles inclosed* as well as on the wrappers. Should the wrappers become detached, as they frequently do, through the friction and movement incident to mail transportation by sea or land, it will still be possible to deliver the articles if this precaution is taken. Persons to whom such packages are regularly sent from Europe, or other places abroad, should advise their correspondents to adopt the above suggestion.

OTHER MATTER.—Same rates and conditions of transmission as for matter for delivery within the United States except that MERCHANDISE IS RIGIDLY EXCLUDED. *Samples* of merchandise are mailable, but they must not exceed eight ounces in weight, and are subject to a postage of ten cents each. They must also be strictly *specimens of goods for sale.*

THE SOLDIERS' HOMES.

In order to provide for the declining years of the veterans of the late war, there are several National Homes for disabled volunteer soldiers in various parts of the country. The oldest and most permanent place of the kind is just north of Washington city and intended for veterans of the regular army. Branches are established at Fogus, Maine; Hampton, Virginia; Dayton, Ohio; and Milwaukee, Wisconsin. The Home at Washington owes its existence to General Scott, who induced Congress to devote to this purpose, in 1851, the balance of the indemnity he exacted from the City of Mexico, amounting to $118,719. This fund has since been steadily increased, and has been liberally applied to the improvement of the Home. The grounds include over five hundred acres of varied landscape, overlooking the federal city. There is a main building of white marble, with officers' cottages, a handsome library building, chapel, and large infirmary or hospital, besides stables, farm-houses, etc.

The management was thoroughly reorganized by act of Congress, March 3d, 1883, and since that time has been more satisfactory, it is said, to the inmates and the Government than before. Major B. F. Rittenhouse, U. S. A., is the present Secretary and Treasurer.

We give abstracts of the laws providing for the Home and the regulations issued in pursuance thereof, with the form of application for admission.

Title LIX, chap. 2, secs. 4814 to 4824 Revised Statutes U. S. provide as follows:

The Commissary General of Subsistence, the Surgeon General, and the Adjutant constitute the Board of Commissioners, and have authority to make regulations for the direction of the Institution, subject to the approval of the Secretary of War.

Other sections under the same title are the following:

SEC. 4814. All soldiers of the Army of the United States, and all soldiers who have been, or may hereafter be, of the Army of the United States, and who have contributed, or may hereafter contribute, according to section forty-eight hundred and nineteen, to the support of the Soldiers' Home hereby created, and the invalid and disabled soldiers, whether regulars or volunteers, of the war of eighteen hundred and twelve, and of all subsequent wars, shall, under the restrictions and provisions which follow, be members of the Soldiers' Home, with all the rights annexed thereto. [See section 4821.]

SEC. 4819. There shall be deducted from the pay of every non-commissioned officer, musician, artificer, and private of the Army of the United States the sum of twelve and a half cents per month, which sum so deducted shall, by the Pay Department of the Army, be passed to the credit of the commissioners of the Soldiers' Home. The commissioners are also authorized to receive all donations of money or property made by any person for the benefit of the institution, and hold the same for its sole and exclusive use. But the deduction of twelve and a half cents per month from the pay of non-commissioned officers, musicians, arti-

ficers, and privates of regiments of volunteers, or other corps or regiments raised for a limited period, or for a temporary purpose or purposes, shall only be made with their consent.

SEC. 4821. The following persons, members of the Soldiers' Home, according to section forty-eight hundred and fourteen, shall be entitled to the rights and benefits therein conferred, and no others:

First. Every soldier of the Army of the United States who has served, or may serve, honestly and faithfully twenty years in the same.

Second. Every soldier and every discharged soldier, whether regular or volunteer, who has suffered, or may suffer, by reason of disease or wounds incurred in the service and in the line of his duty, rendering him incapable of further military service, if such disability was not occasioned by his own misconduct.

Third. The invalid and disabled soldiers, whether regulars or volunteers, of the war of eighteen hundred and twelve and of all subsequent wars.

SEC. 4822. The benefits of the Soldiers' Home shall not be extended to any soldier in the regular or volunteer service, convicted of felony or other disgraceful or infamous crimes of a civil nature after his admission into the service of the United States; nor shall any one who has been a deserter, mutineer, or habitual drunkard be received, without such evidence of subsequent service, good conduct, and reformation of character, as is satisfactory to the commissioners.

SEC. 4823. Any soldier admitted into the Soldiers' Home for disability who recovers his health, so as to become fit again for military service, if under fifty years of age, shall be discharged.

SEC. 4824. All persons admitted into the Soldiers' Home shall be subject to the Rules and Articles of War in the same manner as soldiers in the Army.

The act of Congress, approved March 3, 1883, provides as follows for the Soldiers' Home at Washington, D C.

SEC. 4. That any inmate of the Home, who is receiving a pension from the government, and who has a child, wife, or parent living, shall be entitled, by filing with the pension agent from whom he receives his money a written direction to that effect, to have his pension, or any part of it, paid to such child, wife, or parent. The pensions of all who now are or shall hereafter become inmates of the Home, except such as shall be assigned as aforesaid, shall be paid to the treasurer of the Home. The money thus derived shall not become a part of thefunds of the Home, but shall be held by the treasurer in trust for the pensioner to whom it would otherwise have been paid, and such part of it as shall not sooner have been paid to him shall be paid to him on his discharge from the institution. The board of commissioners may from time to time pay over to any inmate such part of his pension money as they think best for his interest and consistent with the discipline and good order of the Home, but such pensioner shall not be entitled to demand or have the same so long as he remains an inmate of the Home. In case of the death of any pensioner, any pension money due him and remaining in the hands of the Treasurer shall be paid to his legal heirs, if demand is made within three years; otherwise the same shall escheat to the Home.

Approved, March 3, 1883.

REGULATIONS.

ARTICLE I. The object of the "Soldiers' Home" is to provide an honorable and comfortable refuge for old and disabled soldiers of the Army who have served honestly and faithfully for twenty years, or who have been wounded in the service, or have been disabled by disease contracted in the line of their duty, so as to unfit them for rendering further military service, or for earning a competence by their own labor; and to extend charitable help to such as are entitled to the benefits of the Home but cannot reside at the Home itself.

ARTICLE II. Applications for admission to the privileges of the Home may be made to the Governor in person, or by letter addressed to the secretary of the Board of Commissioners, giving, if possible, name, dates of enlistment and discharge of each term, the number of the regiment and letter of the company, with all possible data to enable him to verify the claim, which verification or otherwise, will be endorsed on the application, and submitted to the Board of Commissioners for their final action.

ARTICLE IV. The executive government of the institution will be in a governor, deputy governor, and treasurer; all to be selected by the President from the active or retired list of the Army.

ARTICLE IX Every inmate of the Soldiers' Home is entitled by law to a "suitable uniform," at the expense of the institution. This uniform will be the same or similar to what he wore while in the Army, viz., a dark blue blouse or coatee, with vest of same color; and light blue pants, with a good hat or cap, a pair of shoes, and comfortable under clothing. He may wear the stripes, service chevrons, or other insignia of his rank while in the military service of his country. He is entitled to good meals a good bed, and such recreation as the Home can afford; and in consideration of good conduct, the Governor may allot him a dollar per month for spending money, and may pay him at the rate of twenty-five cents extra per day for such labor as he may be able and willing to perfom, subject to any rules which may be approved by the Board of Commissioners. Inmates permitted by the Board to reside outside the limits of the Home may receive an allowance not to exceed eight dollars a month.

FORM OF LETTER SENT TO APPLICANTS.

In your letter of the ——— I have to inform you that the persons entitled to the benefits of the Soldiers' Home are:

1st. *Those who have served faithful for twenty years, or more, as enlisted men in the Army.*

2d. *Those who have become disqualified for further service by wounds received, or disease contracted in the service, and in the line of military duty as enlisted men in the regular Army.*

An applicant may detach the blank form herewith, fill it up carefully as his request for the benefits of the Home, and mail it to the address given thereon. If he does not desire to become a resident inmate he may request commutation, which will not exceed $8 per month, including the pension which he may be receiving, but he must furnish reasonable evidence of his inability to maintain himself comfortably without aid, and must state his reasons for not wishing to enter the Home.

FORM OF APPLICATION.

(Post Office,)———
(Date,)———

Sirs:

I have the honor to submit the following statement which gives the date of enlistment, date of discharge, and company and regiment for each term of my service, and to request admission to the benefits of the Soldiers' Home.

No.	ENLISTED, (Date.)	DISCHARGED, Date.)	RANK. Co.	REGIMENT.

Very Respectfully,
Your obedient servant,

———

To the
Commissioners of the Soldiers' Home,
Room No. 3 War Department,
Washington, D. C

IN THE SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1886.

ORDERED, That the following section be added to Rule 10:

9. The plaintiff in error or appellant may, within ninety days after filing the record in this court, file with the clerk a statement of the errors on which he intends to rely, and of the parts of the record which he thinks necessary for the consideration thereof, and forthwith serve on the adverse party a copy of such statement. The adverse party, within ninety days thereafter, may designate in writing, filed with the clerk, additional parts of the record which he thinks material; and, if he shall not do so, he shall be held to have consented to a hearing on the parts designated by the plaintiff in error or appellant. If parts of the record shall be so designated by one or both of the parties, the clerk shall print those parts only; and the court will consider nothing but those parts of the record, and the errors so stated. If at the hearing it shall appear that any material part of the record has not been printed, the writ of error or appeal may be dismissed, or such other order made as the circumstances may appear to the court to require. If the defendant in error or appellee shall have caused unnecessary parts of the record to be printed, such order as to costs may be made as the court shall think proper.

The fees of the clerk, under Rule 24, section 7, shall be computed, as at present, on the folios in the record as filed, and shall be in full for the performance of his duties in the execution hereof.

Promulgated March 28th, 1887.

RULES

OF THE

SUPREME COURT OF THE UNITED STATES.

I.

CLERK.

1. The clerk of this court shall reside and keep the office at the seat of the National Government, and he shall not practice, either as attorney or counsellor, in this court, or in any other court, while he shall continue to be clerk of this court.

2. The clerk shall not permit any original record or paper to be taken from the court-room, or from the office, without an order from the court, except as provided by Rule 10.

2.

ATTORNEYS AND COUNSELLORS.

1. It shall be requsite to the admission of attorneys or counsellors to practice in this court, that they shall have been such for three yaars past in the supreme court of the States to which they respectively belong, and that their private and professional character shall appear to be fair.

2. They shall respectively take and subscribe the following oath or affirmation, viz:

I, ——— ———, do solemnly swear [or affirm] that I will demean myself, as an attorney and counsellor of this court, uprightly, and according to law; and I will support the Constitution of the United States.

3.

PRACTICE.

This court considers the former practice of the courts of king's bench and of chancery in England, as affording outlines for the practice of this court; and will, from time to time, make such alterations therein as circumstances may render necessary.

4.

BILL OF EXCEPTIONS.

The judges of the circuit and district courts shall not allow any bill of exceptions which shall contain the charge of the court at large to the jury in trials at common law, upon any general exception to the whole of such charge. But the party excepting shall be required to state distinctly the several matters of law in such charge to which he excepts; and those matters of law, and those only, shall be inserted in the bill of exceptions and allowed by the court.

5.

PROCESS.

1. All process of this court shall be in the name of the President of the United States.

2. When process at common law or in equity shall issue against a State, the same shall be served on the governor, or chief executive magistrate, and attorney-general of such State.

3. Process of subpœna, issuing out of this court, in any suit in equity, shall be served on the defendant sixty days before the return-day of the said process; and if the defendant, on such service of the subpœna, shall not appear at the return day, the complainant shall be at liberty to proceed *ex parte*.

6.

MOTIONS.

1. All motions to the court shall be reduced to writing; and shall contain a brief statement of the facts and objects of the motion.

2. One hour on each side shall be allowed to the argument of a motion, and no more, without special leave of the court, granted before the argument begins.

3. No motion to dismiss, except on special assignment by the court, shall be heard, unless previous notice has been given to the adverse party, or the counsel or attorney of such party.

4. All motions to dismiss writs of error and appeals, except motions to docket and dismiss under Rule 9, must be submitted in the first instance on printed briefs and arguments. If the court desires further argument on that subject, it will be ordered in connection with the hearing on the merits. The party moving to dismiss shall serve notice of the motion, with a copy of his brief or argument, on the counsel for plaintiff in error or appellant of record in this court, at least three weeks before the time fixed for submitting the motion, in all cases except where the counsel to be notified resides west of the Rocky Mountains, in which case the notice shall be at least thirty days. Affidavit of the deposit in the mail of the notice and brief to the proper address of the counsel to be served, duly post-paid, at such time as to reach him by due course of mail, the three weeks or thirty days before the time fixed by the notice, will be regarded as *prima facie* evidence of service on counsel who reside without the District of Columbia. On proof of such service, the motion will be considered, unless, for satisfactory reasons, further time be given by the court to either party.

5. There may be united, with a motion to dismiss a writ of error or an appeal, a motion to affirm on the ground that, although the record may show that this court has jurisdiction, it is manifest the writ or appeal was taken for delay only, or that the question on which the jurisdiction depends is so frivolous as not to need further argument.

6. The court will not hear arguments on Saturday (unless for special cause it shall order to the contrary), but will devote that day to the other business of the court. The motion-day shall be Monday of each week; and motions not required by the rules of the court to be put on the docket shall be entitled to preference immediately after the reading of opinions, if such motions shall be made before the court shall have entered upon the hearing of a case upon the docket.

7.

LAW LIBRARY.

1. During the session of the court, any gentleman of the bar having a case on the docket, and wishing to use any book or books in the law library, shall be at liberty, upon application to the clerk of the court, to receive an order to take the same (not exceeding at any one time three) from the library, he being thereby responsible for the due return of the same within a reasonable time, or when required by the clerk. It shall be the duty of the clerk to keep, in a book for that purpose, a record of all books so delivered, which are to be charged against the party receiving the same. And in case the same shall not be so returned, the party receiving the same shall be responsible for and forfeit and pay twice the value thereof, and also one dollar per day for each day's detention beyond the limited time.

2. The clerk shall deposit in the law library, to be there carefully preserved one copy of the printed record in every case submitted to the court for its consideration, and of all printed motions, briefs or arguments filed therein.

3. The marshal shall take charge of the books of the court, together with such duplicate law books as Congress may direct to be transferred to the court, and arrange them in the conference-room, which he shall have fitted up in a proper manner; and he shall not permit such books to be taken therefrom by any one except the justices of the court.

8.

WRIT OF ERROR, RETURN AND RECORD.

1. The clerk of the court to which any writ of error shall be directed shall make return of the same, by transmitting a true copy of the record, and of the assignment of errors, and of all proceedings in the case, under his hand and the seal of the court.

2. In all cases brought to this court, by writ of error or appeal, to review any judgment or decree, the clerk of the court by which such judgment or decree was rendered shall annex to and transmit with the record a copy of the opinion or opinions filed in the case.

3. No case will be heard until a complete record, containing in itself, and not by reference, all the papers, exhibits, depositions, and other proceedings which are necessary to the hearing in this court, shall be filed.

4. Whenever it shall be necessary or proper, in the opinion of the presiding judge in any circuit court, or district court exercising circuit-court jurisdiction, that original papers of any kind should be inspected in this court upon writ of error or appeal, such presiding judge may make such rule or order for the safe-keeping, transporting, and return of such original papers as to him may seem proper; and this court will receive and consider such original papers in connection with the transcript of the proceedings.

5. In cases where final judgment is rendered more than thirty days before the first day of the next term of this court, the writ of error and citation, if taken before, must be returnable on the first day of said term and be served before that day; but in cases where the judgment is rendered less than thirty days before the first day the writ of error and citation may be made returnable on the third Monday of the said term, and be served before that day.

6. The record in cases of admiralty and maritime jurisdiction, when under the requirements of law the facts have been found in the court below and the power of review is limited to the determination of questions of law arising on the record, shall be confined to the pleadings, the findings of fact and conclusions of law thereon, the bills of exceptions, the final judgment or decree, and such interlocutory orders and decrees as may be necessary to a proper review of the case.

9.

DOCKETING CASES.

1. In all cases where a writ of error or an appeal shall be brought to this court from any judgment or decree rendered thirty days before the commencement of the term, it shall be the duty of the plaintiff in error or appellant to docket the case and file the record thereof with the clerk of this court within the first six days of the term; and if the writ of error or appeal shall be brought from a judgment or decree rendered less than thirty days before the commencement of the term, it shall be the duty of the plaintiff in error or appellant to docket the case and file the record thereof with the clerk of this court within the first thirty days of the term; and if the plaintiff in error or appellant shall fail to comply with this rule, the defendant in error or appellee may have the case docketed and dismissed upon producing a certificate from the clerk of the court wherein the judgment or decree was rendered, stating the case and certifying that such writ of error or appeal has been duly sued out and allowed. And in no case shall the plaintiff in error or appellant be entitled to docket the case and file the record after the same shall have been docketed and dismissed under this rule, unless by order of the court.

2. But the defendant in error or appellee may, at his option, docket the case and file a copy of the record with the clerk of the court; and if the case is docketed and a copy of the record filed with the clerk of this court by the plaintiff in error or appellant within the periods of time above limited and prescribed by this rule, or by the defendant in error or appellee at any time thereafter during the term, the case shall stand for argument at the term.

3. Upon the filing of the transcript of a record brought up by writ of error or appeal, the appearance of the counsel for the party docketing the case shall be entered.

4. In all cases where the period of thirty days is mentioned in this rule, it shall be extended to sixty days in writs of error and appeals from California, Oregon, Nevada, Washington, New Mexico, Utah, Arizona, Montana, and Idaho.

10.

PRINTING RECORDS.

1. In all cases the plaintiff in error or appellant on docketing a case and filing the record, shall enter into an undertaking to the clerk, with surety to his satisfaction, for the payment of his fees, or otherwise satisfy him in that behalf.

2 The clerk shall cause an estimate to be made of the cost of printing the record, and of his fee for preparing it for the printer and supervising the printing, and shall notify to the party docketing the case the amount of the estimate. If he shall not pay it within a reasonable time, the clerk shall notify the adverse party and he may pay it. If neither party shall pay it, and for want of such payment the record shall not have been printed when a case is reached in the regular call of the docket, after March 1, 1884, the case shall be dismissed.

3. Upon payment by either party of the amount estimated by the clerk, twenty-five copies of the record shall be printed, under his supervision, for the use of the court and of counsel.

4. In cases of appellate jurisdiction the original transcript on file shall be taken by the clerk to the printer. But the clerk shall cause copies to be made for the printer of such original papers, sent up under Rule 8, Section 4, as are necessary to be printed; and of the whole record in cases of original jurisdiction.

5. The clerk shall supervise the printing, and see that the printed copy is properly indexed. He shall distribute the printed copies to the justices and the reporter, from time to time, as required, and a copy to the counsel for the respective parties.

6. If the actual cost of printing the record, together with the fee of the clerk shall be less than the amount estimated and paid, the amount of the difference shall be refunded by the clerk to the party paying it. If the actual cost and clerk's fee shall exceed the estimate, the amount of the excess shall be paid to the clerk before the delivery of a printed copy to either party or his counsel.

7. In case of reversal, affirmance, or dismissal, with costs, the amount of the cost of printing the record and of the clerk's fee shall be taxed against the party against whom costs are given, and shall be inserted in the body of the mandate or other proper process.

8. Upon the clerk's producing satisfactory evidence, by affidavit or the acknowledgment of the parties or their sureties, of having served a copy of the bill of fees due by them, respectively, in this court, on such parties or their sureties, an attachment shall issue against such parties or sureties, respectively, to compel payment of the said fees.

11.

TRANSLATIONS.

Whenever any record transmitted to this court upon a writ of error or appeal shall contain any document, paper, testimony, or other proceedings in a foreign language, and the record does not also contain a translation of such document, paper, testimony, or other proceeding, made under the authority of the inferior court, or admitted to be correct, the record shall not be printed; but the case shall be reported to this court by the clerk, and the court will thereupon remand it to the inferior court, in order that a translation may be there supplied and inserted in the record.

12.

FURTHER PROOF.

1. In all cases where further proof is ordered by the court, the depositions which may be taken shall be by a commission, to be issued from this court, or from any circuit court of the United States.

2. In all cases of admiralty and maritime jurisdiction, where new evidence shall be admissible in this court, the evidence by testimony of witnesses shall

be taken under a commission to be issued from this court, or from any circuit court of the United States, under the direction of any judge thereof; and no such commission shall issue but upon interrogatories, to be filed by the party applying for the commission, and notice to the opposite party or his agent or attorney, accompanied with a copy of the interrogatories so filed, to file cross-interrogatories within twenty days from the service of such notice: Provided, however, That nothing in this rule shall prevent any party from giving oral testimony in open court in cases where by law it is admissible.

13.

OBJECTIONS TO EVIDENCE IN THE RECORD.

In all cases of equity or admiralty jurisdiction, heard in this court, no objection shall hereafter be allowed to be taken to the admissibility of any depositions, deed, grant, or other exhibit found in the record as evidence, unless objection was taken thereto in the court below and entered of record; but the same shall otherwise be deemed to have been admitted by consent.

14.

CERTIORARI.

No *certiorari* for diminution of the record will be hereafter awarded in any case, unless a motion therefor shall be made in writing, and the facts on which the same is founded shall, if not admitted by the other party, be verified by affidavit. And all motions for such *certiorari* must be made at the first term of the entry of the case; otherwise, the same will not be granted, unless upon special cause shown to the court, accounting satisfactorily for the delay.

15.

DEATH OF A PARTY.

1. Whenever, pending a writ of error or appeal in this court, either party shall die, the proper representatives in the personalty or realty of the deceased party, according to the nature of the case, may voluntarily come in and be admitted parties to the suit, and thereupon the case shall be heard and determined as in other cases; and if such representatives shall not voluntarily become parties, then the other party may suggest the death on the record and thereupon, on motion, obtain an order that unless such representatives shall become parties within the first ten days of the ensuing term, the party moving for such order, if defendant in error, shall be entitled to have the writ of error or appeal dismissed; and if the party so moving shall be plaintiff in error, he shall be entitled to open the record, and on hearing have the judgment or decree reversed, if it be erroneous: Provided, however, That a copy of every such order shall be printed in some newspaper of general circulation within the State, Territory, or District from which the case is brought, for three successive weeks, at least sixty days before the beginning of the term of the Supreme Court then next ensuing.

2. When the death of a party is suggested, and the representatives of the deceased do not appear by the tenth day of the second term next succeeding the suggestion and no measures are taken by the opposite party within that time to compel their appearance, the case shall abate.

3. When either party to a suit in a circuit court of the United States shall desire to prosecute a writ of error or appeal to the Supreme Court of the United States, from any final judgment or decree, rendered in the circuit court, and at the time of suing out such writ of error or appeal the other party to the suit shall be dead and have no proper representative within the jurisdiction of the court which rendered such final judgment or decree, so that the suit cannot be revived in that court, but shall have a proper representative in some State or Territory of the United States, the party desiring such writ of error or appeal may procure the same, and may have proceedings on such judgment or decree superseded or stayed in the same manner as is now allowed by law in other cases and shall thereupon proceed with such writ of error or appeal as in other cases. And within thirty days after the commencement of the term to which

such writ of error or appeal is returnable, the plaintiff in error or appellant shall make a suggestion to the court, supported by affidavit, that the said party was dead when the writ of error or appeal was taken or sued out, and had no proper representative within the jurisdiction of the court which rendered said judgment or decree, so that the suit could not be revived in that court, and that said party had a proper representative in some State or Territory of the United States, and stating therein the name and character of such representative, and the State or Territory in which such representative resides; and, upon suggestion, he may, on motion, obtain an order that, unless such representative shall make himself a party within the first ten days of the ensuing term of the court, the plaintiff in error or appellant shall be entitled to open the record, and, on hearing, have the judgment or decree reversed, if the same be erroneous: Provided, however, That a proper citation reciting the substance of such order shall be served upon such representative, either personally or by being left at his residence, at least sixty days before the beginning of the term of the Supreme Court then next ensuing: And provided, also, That in every such case, if the representative of the deceased party does not appear by the tenth day of the term next succeeding said suggestion, and the measures above provided to compel the appearance of such representative have not been taken within the time as above required, by the opposite party, the case shall abate: And provided, also, That the said representative may at any time before or after said suggestion come in and be made a party to the suit, and thereupon the case shall proceed, and be heard and determined as in other cases.

16.

NO APPEARANCE OF PLAINTIFF.

Where no counsel appears and no brief has been filed for the plaintiff in error or appellant, when the case is called for trial, the defendant may have the plaintiff called and the writ of error or appeal dismissed, or may open the record and pray for an affirmance.

17.

NO APPEARANCE OF DEFENDANT.

Where the defendant fails to appear when the case is called for trial, the court may proceed to hear an argument on the part of the plaintiff and to give judgment according to the right of the case.

18.

NO APPEARANCE OF EITHER PARTY.

When a case is reached in the regular call of the docket, and there is no appearance for either party, the case shall be dismissed at the cost of the plaintiff.

19.

NEITHER PARTY READY AT SECOND TERM.

When a case is called for argument at two successive terms, and upon the call at the second term neither party is prepared to argue it, it shall be dismissed at the cost of the plaintiff, unless sufficient cause is shown for further postponement.

20.

PRINTED ARGUMENTS.

1. In all cases brought here on writ of error, appeal, or otherwise, the court will receive printed arguments without regard to the number of the case on the docket, if the counsel on both sides shall choose to submit the same within the first ninety days of the term; but twenty-five copies of the arguments, signed by attorneys or counsellors of this court, must be first filed.

2. When a case is reached in the regular call of the docket, and a printed argument shall be filed for one or both parties, the case shall stand on the same footing as if there were an appearance by counsel.

3. When a case is taken up for trial upon the regular call of the docket, and argued orally in behalf of only one of the parties, no printed argument for the

opposite party will be received, unless it is filed before the oral argument begins, and the court will proceed to consider and decide the case upon the *ex parte* argument.

4. No brief or argument will be received, either through the clerk or otherwise, after a case has been argued or submitted, except upon leave granted in open court after notice to opposing counsel.

21.

BRIEFS.

1. The counsel for the plaintiff in error or appellant shall file with the clerk of the court, at least six days before the case is called for argument, twenty five copies of a printed brief, one of which shall, on application, be furnished to each of the counsel engaged upon the opposite side.

2. This brief shall contain, in the order here stated—

(1.) A concise abstract, or statement of the case, presenting succinctly the questions involved and the manner in which they are raised.

(2.) A specification of the errors relied upon, which, in cases brought up by writ of error, shall set out separately and particularly each error asserted and intended to be urged; and in cases brought up by appeal the specification shall state, as particularly as may be, in what the decree is alleged to be erroneous. When the error alleged is to the admission or to the rejection of evidence, the specification shall quote the full substance of the evidence admitted or rejected. When the error alleged is to the charge of the court, the specification shall set out the part referred to *totidem verbis*, whether it be instructions given or instructions refused. When the error alleged is to a ruling upon the report of a master, the specification shall state the exception to the report and the action of the court upon it.

(3.) A brief of the argument, exhibiting a clear statement of the points of law or fact to be discussed, with a reference to the pages of the record and the authorities relied upon in support of each point. When a statute of a State is cited, so much thereof as may be deemed necessary to the decision of the case shall be printed at length.

3. The counsel for defendant in error or an appellee shall file with the clerk twenty-five printed copies of his argument, at least three days before the case is called for hearing. His brief shall be of a like character with that required of the plaintiff in error or appellant, except that no specification of errors shall be required, and no statement of the case, unless that presented by the plaintiff in error or appellant is controverted.

4. When there is no assignment of errors, as required by section 997 of the Revised Statutes, counsel will not be heard, except at request of the court; and errors not specified according to this rule will be disregarded; but the court, at its option, may notice a plain error not assigned or specified.

5. When, according to this rule, a plaintiff in error or an appellant is in default, the case may be dismissed on motion; and when a defendant in error or an appellee is in default, he will not be heard, except on consent of his adversary, and by request of the court.

6. When no counsel appears for one of the parties, and no printed brief or argument is filed, only one counsel will be heard for the adverse party; but if a printed brief or argument is filed, the adverse party will be entitled to be heard by two counsel.

22.

ORAL ARGUMENTS.

1. The plaintiff or appellant in this court shall be entitled to open and conclude the argument of the case. But when there are cross-appeals they shall be argued together as one case, and the plaintiff in the court below shall be entitled to open and conclude the argument.

2. Only two counsel will be heard for each party on the argument of a case.

3. Two hours on each side will be allowed for the argument, and no more, without special leave of the court, granted before the argument begins. The time thus allowed may be apportioned between the counsel on the same side, at their discretion: Provided, always, That a fair opening of the case shall be made by the party having the opening and closing arguments.

23.

INTEREST.

1. In cases where a writ of error is prosecuted to this court, and the judgment of the inferior court is affirmed, the interest shall be calculated and levied, from the date of the judgment below until the same is paid, at the rate that similar judgments bear interest in the courts of the State where such judgment is rendered.

2. In all cases where a writ of error shall delay the proceedings on the judgment of the inferior court, and shall appear to have been sued out merely for delay, damages at a rate not exceeding ten per cent., in addition to interest, shall be awarded upon the amount of the judgment.

3. The same rule shall be applied to decrees for the payment of money in cases of equity, unless otherwise ordered by this court.

4. In cases in admiralty, interest shall not be allowed, unless specially directed by the court.

24.

COSTS.

1. In all cases where any suit shall be dismissed in this court, except where the dismissal shall be for want of jurisdiction, costs shall be allowed to the defendant in error or appellee, unless otherwise agreed by the parties.

2. In all cases of affirmance of any judgment or decree in this court, costs shall be allowed to the defendant in error or appellee, unless otherwise ordered by the court.

3. In cases of reversal of any judgment or decree in this court, costs shall be allowed to the plaintiff in error or appellant, unless otherwise ordered by the court. The cost of the transcript of the record from the court below shall be a part of such costs, and be taxable in that court as costs in the case.

4. Neither of the foregoing sections shall apply to cases where the United States are a party; but in such cases no costs shall be allowed in this court for or against the United States.

5. In all cases of the dismissal of any suit in this court, it shall be the duty of the clerk to issue a mandate, or other proper process, in the nature of a *procedendo*, to the court below, for the purpose of informing such court of the proceedings in this court so that further proceedings may be had in such court as to law and justice may appertain.

6. When costs are allowed in this court, it shall be the duty of the clerk to insert the amount thereof in the body of the mandate, or other proper process, sent to the court below, and annex to the same the bill of items taxed in detail.

7. In pursuance of the act of March 3, 1883, authorizing and empowering this court to prepare a table of fees to be charged by the clerk of this court, the following table is adopted:

For docketing a case and filing and indorsing the transcript of the record, five dollars.

For entering an appearance, twenty-five cents.

For entering a continuance, twenty-five cents.

For filing a motion, order, or other paper, twenty-five cents.

For entering any rule, or for making or copying any record or other paper, twenty cents per folio of each one hundred words.

For transferring each case to a subsequent docket and indexing the same, one dollar.

For entering a judgment or decree, one dollar.

For every search of the records of the court, one dollar.

For a certificate and seal, two dollars.

For receiving, keeping, and paying money in pursuance of any statute or order of court, two per cent. on the amount so received, kept, and paid.

For an admission to the bar and certificate under seal, ten dollars.

For preparing the record or a transcript thereof for the printer, indexing the same, supervising the printing and distributing the printed copies to the justices, the reporter, the law library, and the parties or their counsel, fifteen cents per folio.

For making a manuscript copy of the record, when required under Rule 10, twenty cents per folio, but nothing in addition for supervising the printing.

For issuing a writ of error and accompanying papers, five dollars.

For a mandate or other process, five dollars.

For filing briefs, five dollars for each party appearing.

For every copy of any opinion of the court or any justice thereof, certified under seal, one dollar for every printed page, but not to exceed five dollars in the whole for any copy.

25.

OPINIONS OF THE COURT.

1. All opinions delivered by the court, shall, immediately upon the delivery thereof, be handed to the clerk to be recorded. And it shall be the duty of the clerk to cause the same to be forthwith recorded, and to deliver a copy to the reporter as soon as the same shall be recorded.

2. The original opinions of the court shall be filed with the clerk of this court for preservation.

3. Opinions printed under the supervision of the justices delivering the same need not be copied by the clerk into a book of records; but at the end of each term the clerk shall cause such printed opinions to be bound in a substantial manner into one or more volumes, and when so bound they shall be deemed to have been recorded within the meaning of this rule.

26.

CALL AND ORDER OF THE DOCKET.

1. The court, on the second day in each term, will commence calling the cases for argument in the order in which they stand on the docket, and proceed from day to day during the term in the same order (except as hereinafter provided;) and if the parties or either of them, shall be ready when the case is called, the same will be heard; and if neither party shall be ready to proceed in the argument, the case shall go down to the foot of the docket, unless some good and satisfactory reason to the contrary shall be shown to the court.

2. Ten cases only shall be considered as liable to be called on each day during the term, including the one under argument

3 Criminal cases may be advanced by leave of the court on motion of either party.

4. Cases once adjudicated by this court upon the merits, and again brought up by writ of error or appeal, may be advanced by leave of the court on motion of either party.

5. Revenue and other cases in which the United States are concerned, which also involve or affect some matter of general public interest, may also by leave of the court be advanced on motion of the Attorney-General.

6. All motions to advance cases must be printed, and must contain a brief statement of the matter involved, with the reasons for the application.

7. No other case will be taken up out of the order on the docket, or be set down for any particular day, except under special and peculiar circumstances to be shown to the court. Every case which shall have been called in its order and passed and put at the foot of the docket shall, if not again reached during the term it was called, be continued to the next term of the court.

8. Two or more cases involving the same question, may, by the leave of the court, be heard together, but they must be argued as one case.

9. If, after a case has been passed under circumstances which do not place it at the foot of the docket, the parties shall desire to have it heard, they may file with the clerk their joint request to that effect, and the case shall then be by him reinstated for call ten cases after that under argument, or next to be called at the end of the day the request is filed. If the parties will not unite in such a request, either may move to take up the case, and it shall then be assigned to such place upon the docket as the court may direct.

10. No stipulation to pass a case without placing it at the foot of the docket will be recognized as binding upon the court. A case can only be so passed upon application made and leave granted in open court.

27.

ADJOURNMENT.

The court will, at every term, announce on what day it will adjourn, at least ten days before the time which shall be fixed upon, and the court will take up no case for argument, nor receive any case upon printed briefs, within three days next before the day fixed upon for adjournment.

28.

DISMISSING CASES IN VACATION.

Whenever the plaintiff and defendant in a writ of error pending in this court, or the appellant and appellee in an appeal, shall in vacation, by their attorneys of record, sign and file with the clerk an agreement in writing directing the case to be dismissed, and specifying the terms on which it is to be dismissed as to costs, and shall pay to the clerk any fees that may be due to him, it shall be the duty of the clerk to enter the case dismissed, and to give to either party requesting it a copy of the agreement filed; but no mandate or other process shall issue without an order of the court.

29.

SUPERSEDEAS.

Supersedeas bonds in the circuit courts must be taken, with good and sufficient security, that the plaintiff in error or appellant shall prosecute his writ or appeal to effect, and answer all damages and costs if he fail to make his plea good. Such indemnity, where the judgment or decree is for the recovery of money not otherwise secured, must be for the whole amount of the judgment or decree, including just damages for delay, and costs and interest on the appeal; but in all suits where the property in controversy necessarily follows the event of the suit, as in real actions, replevin, and in suits on mortgages, or where the property is in the custody of the marshal under admiralty process, as in case of capture or seizure, or where the proceeds thereof, or a bond for the value thereof, is in the custody or control of the court, indemnity in all such cases is only required in an amount sufficient to secure the sum recovered for the use and detention of the property, and the costs of the suit, and just damages for delay, and costs and interest on the appeal.

30.

REHEARING.

A petition for rehearing after judgment can be presented only at the term at which judgment is entered, unless by special leave granted during the term; and be supported by certificate of counsel; and will not be granted; or permitted to be argued, unless a justice who concurred in the judgment desires it, and a majority of the court so determines.

31.

FORM OF PRINTED RECORDS AND BRIEFS.

All records, arguments, and briefs printed for the use of the court must be in such form and size that they can be conveniently bound together, so as to make an ordinary octavo volume.

32.

WRITS OF ERROR AND APPEALS UNDER SECTION 5 OF THE ACT OF MARCH 3, 1875.

1. Writs of error and citations under section 5 of the Act of March 3, 1875, "to determine the jurisdiction of the circuit courts of the United States, and to regulate the removal of causes from the State courts, and for other purposes,"

for the review of orders of the circuit courts dismissing suits, or remanding suit to a State court, must be made returnable within thirty days after date, and be served before the return-day.

2. In all cases where a writ of error or appeal is brought to this court under the provisions of that act, it shall be the duty of the plaintiff in error or the appellant to docket the case and file the record in this court within thirty six days after the date of the writ of error or the taking of the appeal, if there shall be a term of the court pending at that time, and if not, then during the first six days of the next term. If default be made in this particular, proceedings to docket and dismiss may be had as in other cases.

3. All such cases will be advanced on motion. The motion may be made *ex parte*. If granted, the party on whose motion the case shall have been advanced may have the case submitted on printed briefs, on serving, with a copy of his brief, on the adverse party, a notice of intention to submit, such as is required by Rule 6 to be given upon motions to dismiss writs of error and appeals.

4. As soon as such a case is docketed and advanced, the record shall be printed, unless the parties stipulate to the contrary and file their stipulation with the clerk.

5. In all cases where a period of thirty days is included in the times fixed by this rule, it shall be extended to sixty days in writs of error and appeals from California, Oregon, or Nevada.

33.

MODELS, DIAGRAMS, AND EXHIBITS OF MATERIAL.

1. Models, diagrams, and exhibits of material forming part of the evidence taken in the court below, in any case pending in this court, on writ of error or appeal, shall be placed in the custody of the marshal of this court at least one month before the case is heard or submitted.

2. All models, diagrams, or exhibits of material, placed in the custody of the marshal for the inspection of the court on the hearing of a case, must be taken away by the parties within one month after the case is decided. When this is not done, it shall be the duty of the marshal to notify the counsel in the case, by mail or otherwise, of the requirements of this rule; and if the articles are not removed within a reasonable time after the notice is given, he shall destroy them, or make such other disposition of them as to him may seem best.

IN THE SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1885.

Ordered, That the following regulation be established under section 765 Revised Statutes:

RULE 34.

CUSTODY OF PRISONERS ON HABEAS CORPUS.

1. Pending an appeal from the final decision of any court or judge declining to grant the writ of *habeas corpus*, the custody of the prisoner shall not be disturbed.

2. Pending an appeal from the final decision of any court or judge discharging the writ after it has been issued, the prisoner shall be remanded to the custody from which he was taken by the writ, or shall, for good cause shown, be detained in custody of the court or judge, or be enlarged upon recognizance as hereinafter provided.

3. Pending an appeal from the final decision of any court or judge discharging the prisoner, he shall be enlarged upon recognizance, with surety, for appearance to answer the judgment of the appellate court, except where, for special reasons, sureties ought not to be required.

(Promulgated March 29, 1886; amended May 10, 1886.)

THE COURT OF CLAIMS.

The first article of the amendments of the constitution of the United States guarantees to the people the right of petition; but this guarantee was of little value so long as their petitions were not acted upon. Private claims against the United States could only be prosecuted by such petition, and but few of them were ever acted upon. The principal reasons for the failure of Congress to act upon them were the large number of claims, the *ex parte* character of the proceedings and the want of the time and the means to secure a full investigation.

Several measures were proposed to remedy the evil. In 1854, a bill was introduced establishing a commission for the examination and adjustment of private claims. The bill was amended, providing for the appointment of judges with life tenure, instead of commissioners. The bill became a law on the 25th of February, 1855. The act required the appointment of three judges, and these were appointed by President Pierce.

On the 3d of March, 1863, an amendatory act was passed creating two additional judges, making the number five, and allowing an appeal to the Supreme Court by either party, when the amount should exceed three thousand dollars, and by the defendants in other cases.

The Supreme Court hold that the Court of Claims is a court authorized by the constitution, and that its judgment, when no appeal is taken, is absolutely conclusive. The Supreme Court further hold that the Court of Claims may proceed to judgment without trial by jury, and that neither the letter or the spirit of the seventh amendment to the constitution are violated thereby, because the "suits" before the Court of Claims are not "suits" at common law.

THE JURISDICTION, POWERS, AND PROCEDURE OF THE COURT OF CLAIMS.

These are defined in the following sections of the Revised Statutes of the United States, viz:

SEC. 1059. The Court of Claims shall have jurisdiction to hear and determine the following matters:

First. All claims founded upon any law of Congress, or upon any regulation of an Executive Department, or upon any contract, expressed or implied, with the Government of the United States, and all claims which may be referred to it by either House of Congress.

Second. All set-offs, counter claims, claims for damages, whether liquidated or unliquidated, or other demands whatsoever, on the part of the Government of the United States against any person making claim against the Government in said court.

Third. The claim of any paymaster, quartermaster, commissary of subsistence,

or other disbursing officer of the United States, or of his administrators or executors, for relief from responsibility on account of capture or otherwise, while in the line of his duty, of Government funds, vouchers, records, or papers in his charge, and for which such officer was and is held responsible.

Fourth. Of all claims for the proceeds of captured or abandoned property, as provided by the act of March 12, eighteen hundred and sixty-three, chapter one hundred and twenty, entitled "An act to provide for the collection of abandoned property and for the prevention of frauds in insurrectionary districts within the United States," or by the act of July two, eighteen hundred and sixty-four, chapter two hundred and twenty-five, being an act in addition thereto:

Provided, That the remedy given in cases of seizure under the said acts, by preferring claim in the Court of Claims, shall be exclusive, precluding the owner of any property taken by agents of the Treasury Department as abandoned or captured property, in virtue or under color of said acts from suit at common law, or any other mode of redress whatever, before any court other than the said Court of Claims:

[*Provided, also,* That the jurisdiction of the Court of Claims shall not extend to any claim against the United States growing out of the destruction or appropriation of, or damage to, property by the Army or Navy engaged in the suppression of the rebellion.]

SEC. 1060. All petitions and bills praying or providing for the satisfaction of private claims against the Government, founded upon any law of Congress, or upon any regulation of an Executive Department, or upon any contract, expressed or implied, with the Government of the United States, shall, unless otherwise ordered by resolutions of the House in which they are introduced, be transmitted by the Secretary of the Senate or the Clerk of the House of Representatives, with all the accompanying documents, to the Court of Claims.

SEC. 1061. Upon the trial of any cause in which any set off, counter-claim, claim for damages, or other demand is set up on the part of the Government against any person making claim against the Government in said court, the court shall hear and determine such claim or demand both for and against the Government and claimant; and if upon the whole case it finds that the claimant is indebted to the Government, it shall render judgment to that effect, and such judgment shall be final, with the right of appeal, as in other cases provided for by law.

Any transcript of such judgment, filed in the clerk's office of any district or circuit court, shall be entered upon the records thereof, and shall thereby become and be a judgment of such court and be enforced as other judgments in such courts are enforced.

SEC. 1062. Whenever the Court of Claims ascertains the facts of any loss by any paymaster, quartermaster, commissary of subsistence, or other disbursing officer, in the cases hereinbefore provided, to have been without fault or negligence on the part of such officer, it shall make a decree setting forth the amount thereof, and upon such decree the proper accounting officers of the Treasury shall allow to such officer the amount so decreed, as a credit in the settlement of his accounts.

SEC. 1063. Whenever any claim is made against any Executive Department, involving disputed facts or controverted questions of law, where the amount in controversy exceeds three thousand dollars, or where the decision will effect a class of cases, or furnish a precedent for the future action of any Executive Department in the adjustment of a class of cases, without regard to the amount involved in the particular case, or where any authority, right, privilege, or exemption is claimed or denied under the Constitution of the United States, the head of such Department may cause such claim, with all the vouchers, papers, proofs, and documents pertaining thereto, to be transmitted to the Court of Claims, and the same shall be there proceeded in as if originally commenced by the voluntary action of the claimant; and the Secretary of the Treasury may, upon the certificate of any Auditor or Comptroller of the Treasury, direct any account, matter, or claim, of the character, amount, or class described in this section, to be transmitted, with all the vouchers, papers, documents, and proofs pertaining thereto, to the said court, for trial and adjudication.

Provided, That no case shall be referred by any head of a Department unless it belongs to one of the several classes of cases which, by reason of the subject-matter and character, the said court might under existing laws, take jurisdiction of on such voluntary action of the claimant.

SEC. 1064. All cases transmitted by the head of any Department, or upon the certificate of any Auditor or Comptroller, according to the provisions of the preceding section, shall be proceeded in as other cases pending in the Court of Claims, and shall, in all respects, be subject to the same rules and regulations.

SEC. 1065. The amount of any final judgment or decree rendered in favor of the claimant, in any case transmitted to the Court of Claims under the two preceding sections, shall be paid out of any specific appropriation applicable to the case, if any such there be; and where no such appropriation exists, the judgment or decree shall be paid in the same manner as other judgments of the said court.

SEC. 1066. The jurisdiction of said court shall not extend to any claim against the Government not pending therein on December one, eighteen hundred and sixty-two, growing out of or dependent on any treaty stipulation entered into with foreign nations or with the Indian tribes.

SEC. 1067. No person shall file or prosecute in the Court of Claims, or in the Supreme Court on appeal therefrom, any claim for or in respect to which he or any assignee of his has pending in any other court any suit or process against any person who at the time when the cause of action alleged in such suit or process arose, was, in respect thereto, acting or professing to act, mediately or immediately, under the authority of the United States.

SEC. 1068. Aliens, who are citizens or subjects of any government which accords to citizens of the United States the right to prosecute claims against such Government in its courts, shall have the privilege of prosecuting claims against the United States in the Court of Claims, whereof such court, by reason of their subject-matter and character, might take jurisdiction.

SEC. 1069. Every claim against the United States cognizable by the Court of Claims, shall be forever barred unless the petition setting forth a statement thereof is filed in the court, or transmitted to it by the Secretary of the Senate or the Clerk of the House of Representatives as provided by law, within six years after the claim first accrues:

Provided, That the claims of married women first accrued during marriage, of persons under the age of twenty-one years first accrued during minority, and of idiots, lunatics, insane persons, and persons beyond the seas at the time the claim accrued, entitled to the claim, shall not be barred if the petition be filed in the court or transmitted, as aforesaid, within three years after the disability has ceased; but no other disability than those enumerated shall prevent any claim from being barred, nor shall any of the said disabilities operate cumulatively.

SEC. 1070. The said court shall have power to establish rules for its government and for the regulation of practice therein, and it may punish for contempt in the manner prescribed by the common law, may appoint commissioners, and may exercise such powers as are necessary to carry into effect the powers granted to it by law.

SEC. 1071. The judges and clerks of said court may administer oaths and affirmations, take acknowledgments of instruments in writing, and give certificates of the same.

SEC. 1072. The claimant shall, in all cases, fully set forth in his petition the claim;

The action thereon in Congress, or by any of the Departments, if such action has been had;

What persons are owners thereof or interested therein;

When and upon what consideration such persons became so interested;

That no assignment or transfer of said claim, or any part thereof or interest therein, has been made, except as stated in the petition;

That said claimant is justly entitled to the amount therein claimed from the United States, after allowing all just credits and off-sets;

That the claimant, and, where the claim has been assigned, the original and every prior owner thereof, if a citizen, has at all times borne true allegiance to the Government of the United States, and, whether a citizen or not, has not in any way voluntarily aided, abetted, or given encouragement to rebellion against the said Government, and that he believes the facts as stated in the said petition to be true.

And the said petition shall be verified by the affidavit of the claimant, his agent, or attorney.

SEC. 1073. The said allegations as to true allegiance and voluntary aiding, abetting, or giving encouragement to rebellion against the Government may be traversed by the Government, and if on the trial such issues shall be decided against the claimant, his petition shall be dismissed.

SEC. 1074. Whenever it is material in any claim to ascertain whether any person did or did not give any aid or comfort to the late rebellion, the claimant asserting the loyalty of any such person to the United States during such rebellion shall be required to prove affirmatively that such person did, during said rebellion, consistently adhere to the United States, and did give no aid or comfort to persons engaged in said rebellion; and the voluntary residence of any such person in any place where, at any time during such residence, the rebel force or organization held sway, shall be prima-facie evidence that such person did give aid and comfort to said rebellion and to the persons engaged therein.

SEC. 1075. The Court of Claims shall have power to appoint commissioners to take testimony to be used in the investigation of claims which come before it; to prescribe the fees which they shall receive for their services, and to issue commissions for the taking of such testimony, whether taken at the instance of the claimant or of the United States.

SEC. 1076. The said court shall have power to call upon any of the Departments for any information or papers it may deem necessary, and shall have the use of all recorded and printed reports made by the committees of each House of Congress, when deemed necessary in the prosecution of its business. But the head of any Department may refuse and omit to comply with any call for information or papers when, in his opinion, such compliance would be injurious to the public interest.

SEC. 1077. When it appears to the court in any case that the facts set forth in the petition of the claimant do not furnish any ground for relief, it shall not be the duty of the court to authorize the taking of any testimony therein.

SEC. 1078. No witness shall be excluded in any suit in the Court of Claims on account of color.

SEC. 1079. No claimant, nor any person from or through whom any such claimant derives his alleged title, claim, or right against the United States, nor any person interested in any such title, claim, or right, shall be a competent witness in the Court of Claims in supporting the same, and no testimony given by such claimant or person shall be used except as provided in the next section.

SEC. 1080. The court may, at the instance of the attorney or solicitor appearing in behalf of the United States, make an order in any case pending therein, directing any claimant in such case to appear, upon reasonable notice, before any commissioner of the court, and be examined on oath touching any or all matters pertaining to said claim. Such examination shall be reduced to writing by the said commissioner, and be returned to and filed in the court, and may, at the discretion of the attorney or solicitor of the United States appearing in the case, be read and used as evidence on the trial thereof. And if any claimant, after such order is made, and due and reasonable notice thereof is given to him, fails to appear, or refuses to testify or answer fully as to all matters within his knowledge material to the issue, the court may, in its discretion, order that the said cause shall not be brought forward for trial until he shall have fully complied with the order of the court in the premises.

SEC. 1081. The testimony in cases pending before the Court of Claims shall be taken in the county where the witness resides, when the same can be conveniently done

SEC. 1082. The Court of Claims may issue subpœnas to require the attendance of witnesses in order to be examined before any person commissioned to take testimony therein, and such subpœnas shall have the same force as if issued from a district court, and compliance therewith shall be compelled under such rules and orders as the court shall establish.

SEC. 1083. In taking testimony to be used in support of any claim, opportunity shall be given to the United States to file interrogatories, or by attorneys to examine witnesses, under such regulation as said court shall prescribe; and like opportunity shall be afforded the claimant, in cases where testimony is taken on behalf of the United States, under like regulations.

SEC. 1084. The commissioner taking testimony to be used in the Court of Claims shall administer an oath or affirmation to the witnesses brought before him for examination.

SEC. 1085. When testimony is taken for the claimant, the fees of the commissioner before whom it is taken, and the cost of the commission and notice, shall be paid by such claimant; and when it is taken at the instance of the Government, such fees, together with all postage incurred by the Assistant Attorney-General, shall be paid out of the contingent fund provided for the Court of Claims, or other appropriation made by Congress for that purpose.

SEC. 1086. Any person who corruptly practices or attempts to practice any fraud against the United States in the proof, statement, establishment, or allowance of any claim, or of any part of any claim against the United States, shall ipso facto forfeit the same to the Government; and it shall be the duty of the Court of Claims, in such cases, to find specifically that such fraud was practiced or attempted to be practiced, and thereupon to give judgment that such claim is forfeited to the Government, and that the claimant be forever barred from prosecuting the same.

SEC. 1087. When judgment is rendered against any claimant, the court may grant a new trial for any reason which, by the rules of common law or chancery in suits between individuals, would furnish sufficient ground for granting a new trial.

SEC. 1088. The Court of Claims, at any time while any claim is pending before it, or on appeal from it, or within two years next after the final disposition of such claim, may, on motion on behalf of the United States, grant a new trial and stay the payment of any judgment therein, upon such evidence, cumulative or otherwise, as shall satisfy the court that any fraud, wrong, or injustice in the premises has been done to the United States; but until an order is made staying the payment of a judgment, the same shall be payable and paid as now provided by law.

SEC. 1089. In all cases of final judgments by the Court of Claims, or, on appeal, by the Supreme Court, where the same are affirmed in favor of the claimant, the sum due thereby shall be paid out of any general appropriation made by law for the payment and satisfaction of private claims, on presentation to the Secretary of the Treasury of a copy of said judgment, certified by the clerk of the Court of Claims, and signed by the chief justice, or, in his absence, by the presiding judge of said court.

SEC. 1090. In cases where the judgment appealed from is in favor of the claimant, and the same is affirmed by the Supreme Court, interest thereon at the rate of five per centum shall be allowed from the date of its presentation to the Secretary of the Treasury for payment as aforesaid, but no interest shall be allowed subsequent to the affirmance, unless presented for payment to the Secretary of the Treasury as aforesaid.

SEC. 1091. No interest shall be allowed on any claim up to the time of the rendition of judgment thereon by the Court of Claims, unless upon a contract expressly stipulating for payment of interest.

SEC. 1092. The payment of the amount due by any judgment of the Court of Claims and of any interest thereon allowed by law, as hereinbefore provided, shall be a full discharge to the United States of all claim and demand touching any of the matters involved in the controversy.

SEC. 1093. Any final judgment against the claimant on any claim prosecuted as provided in this chapter shall forever bar any further claim or demand against the United States arising out of the matters involved in the controversy.

MISCELLANEOUS PROVISIONS.

SEC. 188. In all suits brought against the United States in the Court of Claims founded upon any contract, agreement, or transaction with any Department, or where the matter or thing on which the claim is based has been passed upon and decided by any Department, Bureau, or officer authorized to adjust it, the Attorney-General shall transmit to such Department, Bureau, or officer, a printed copy of the petition filed by the claimant, with a request that the Department, Bureau, or officer shall furnish to the Attorney-General all facts, circumstances, and evidence touching the claim in the possession or knowledge of the Department, Bureau, or officer.

Such Department, Bureau, or officer shall, without delay, and within a reasonable time, furnish the Attorney-General with a full statement, in writing, of all such facts, information, and proofs.

The statement shall contain a reference to or description of all such official documents or papers, if any, as may furnish proof of facts referred to in it, or may be necessary and proper for the defense of the United States against the claim, mentioning the Department, office, or place where the same is kept or may be procured. If the claim has been passed upon and decided by the Department, Bureau, or officer, the statement shall succinctly state the reasons and principles upon which such decision was based. In all cases where such decision was founded upon any act of Congress, or upon any section or clause of such act, the same shall be cited specifically; and if any previous interpretation or construction has been given to such act, section, or clause, by the Department, Bureau, or officer, the same shall be set forth succinctly in the statement, and a copy of the opinion filed, if any, shall be annexed to it. Where any decision in the case has been based upon any regulation of a Department, or where such regulation has, in the opinion of the Department, Bureau, or officer transmitting such statement, any bearing upon the claim in suit, the same shall be distinctly quoted at length in the statement.

But where more than one case, or a class of cases is pending, the defense to which rests upon the same facts, circumstances and proofs, the Department, Bureau, or officer shall only be required to certify and transmit one statement of the same, and such statement shall be held to apply to all such cases, as if made out, certified, and transmitted in each case respectively.

SEC. 707. An appeal to the Supreme Court shall be allowed, on behalf of the United States, from all judgments of the Court of Claims adverse to the United States, and on behalf of the plaintiff in any case where the amount in controversy exceeds three thousand dollars, or where his claim is forfeited to the United States by the judgment of said court, as provided in section one thousand and eighty-six.

SEC. 708. All appeals from the Court of Claims shall be taken within ninety days after the judgment is rendered, and shall be allowed under such regulations as the Supreme Court may direct.

SEC. 3477. All transfers and assignments made of any claim upon the United States, or of any part or share thereof, or interest therein, whether absolute or conditional, and whatever may be the consideration therefor, and all powers of attorney, orders, or other authorities for receiving payment of any such claim, or of any part or share thereof, shall be absolutely null and void, unless they are freely made and executed in the presence of at least two attesting witnesses, after the allowance of such a claim, the ascertainment of the amount due, and the issuing of a warrant for the payment thereof.

Such transfers, assignments, and powers of attorney, must recite the warrant for payment, and must be acknowledged by the person making them, before an officer having authority to take acknowledgement of deeds, and shall be certified by the officer; and it must appear by the certificate that the officer, at the time of the acknowledgement, read and fully explained the transfer, assignment, or warrant of attorney to the person acknowledging the same

SEC. 3744. It shall be the duty of the Secretary of War, of the Secretary of the Navy, and of the Secretary of the Interior, to cause and require every contract made by them severally on behalf of the Government, or by their officers under them appointed to make such contracts, to be reduced to writing, and signed by the contracting parties with their names at the end thereof; a copy of which shall be filed by the officer making and signing the contract in the Returns Office of the Department of the Interior, as soon after the contract is made as possible, and within thirty days together with all bids, offers, and proposals to him made by persons to obtain the same, and with a copy of any advertisement he may have published inviting bids offers, or proposals for the same. All the copies and papers in relation to each contract shall be attached together by a ribbon and seal, and marked by numbers in regular order, according to the number of papers composing the whole return. (See §§ 512-515.)

THE "BOWMAN ACT."

The act of Congress, March 3, 1883, known as the "Bowman Act," provides that when any claim or *matter* is pending before either House of Congress or any committee which involves the

investigation and determination *of facts*, the same may be transferred to the Court of Claims for hearing. When the facts are found they are transmitted to the House or to the committee from which the case was transmitted. No judgment is entered, no conclusions of law made, and no opinion is given, nor is the evidence returned. All that is reported back is the findings of fact:

The same act authorizes the head of any Executive Department to transmit to the court any claim or matter involving controverted questions of *law or fact*, requiring the court to find both the law and the fact, and to render an opinion; all of which is to be reported to the Department *for its guidance and action*. As no judgments are entered, there is no right of appeal, as in other cases within the jurisdiction of the court.

The "Bowman Act" in full is the following:

CHAPTER 116.

AN ACT to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government.

Be it enacted, etc. [Section 1], That whenever a claim or matter is pending before any committee of the Senate or House of Representatives or before either House of Congress, which involves the investigation and determination of facts, the committee or house may cause the same, with the vouchers, papers, proofs, and documents pertaining thereto, to be transmitted to the Court of Claims of the United States, and the same shall there be proceeded in under such rules as the court may adopt.*

When the facts shall have been found, the court shall not enter judgment thereon, but shall report the same to the committee or to the house by which the case was transmitted for its consideration.

SEC. 2. That when a claim or matter is pending in any of the Executive Departments which may involve controverted questions of fact or law, the head of such Department may transmit the same, with the vouchers, papers, proofs, and documents pertaining thereto, to said court, and the same shall be there proceeded in under such rules as the court may adopt.*

When the facts and conclusions of law shall have been found, the court shall not enter judgment thereon, but shall report its findings and opinions to the Department by which it was transmitted for its guidance and action.

SEC. 3. The jurisdiction of said court shall not extend to or include any claim against the United States growing out of the destruction or damage to property by the Army or Navy during the war for the suppression of the rebellion, or for the use and occupation of real estate by any part of the military or naval forces of the United States in the operations of said forces during the said war at the seat of war.

Nor shall the said court have jurisdiction of any claim against the United States which is now barred by virtue of the provisions of any law of the United States.

SEC. 4. In any case of a claim for supplies or stores taken by or furnished to

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*This act does not repeal Revised Statutes, section 1063, which authorized the head of a Department to transmit to the Court of Claims any cases of the class of which, by reason of the subject-matter and character, the court might take jurisdiction of on the voluntary action of claimants, and which are set forth in the Revised Statutes, section 1059.

Nor does it repeal that provision in section 1059 of the Revised Statutes which gives the court jurisdiction to hear and determine "all claims which may be referred by either house of Congress."

In all the above-mentioned cases the court has jurisdiction to enter judgment.

Care must therefore be taken in referring to the court cases which might come under either the Revised Statutes, or the act of March 3, 1883, to specify under which law the reference is made.

any part of military or naval forces of the United States for their use during the late war for the suppression of the rebellion, the petition shall aver that the person who furnished such supplies or stores, or from whom such supplies or stores were taken, did not give any aid or comfort to said rebellion, but was throughout that war loyal to the Government of the United States, and the fact of such loyalty shall be a jurisdictional fact;

And unless the said court shall, on a preliminary inquiry, find that the person who furnished such supplies or stores, or from whom the same were taken as aforesaid, was loyal to the Government of the United States throughout said war, the court shall not have jurisdiction of such cause, and the same shall, without further proceedings, be dismissed.

SEC. 5. That the Attorney-General, or his assistants, under his direction, shall appear for the defense and protection of the interests of the United States in all cases which may be transmitted to the Court of Claims under this act, with the same power to interpose counter-claim, offsets, defenses for fraud practiced or attempted to be practiced by claimants, and other defenses, in like manner as he is now required to defend the United States in said court.

SEC. 6. That in the trial of such cases no person shall be excluded as a witness because he or she is a party to or interested in the same.

SEC. 7. That reports of the Court of Claims to Congress under this act, if not finally acted upon during the session at which they are reported, shall be continued from session to session and from Congress to Congress until the same shall be finally acted upon.

MARCH 3, 1883.

RULES

OF

THE COURT OF CLAIMS.

ARTICLE I.—Attorneys and Counsel.

Sec. 1. Suits may be commenced by the claimant in person, or through his attorney in fact, or an attorney of this court. If the claimant is represented by an attorney in fact, the power must be filed with the clerk, and its execution must be proved or acknowledged before an officer authorized to take acknowl edgements of deeds.

Sec. 2. Any person of good moral character, who has been admitted to practice in the Supreme Court of the United States, or in the highest court of the District of Columbia, or in the highest court of any State or Territory, may be admitted, on motion in open court, to practice as an attorney and counselor of this court.

He may also be admitted at chambers, in vacation, by any member of the court, on its being shown by his affidavit or otherwise, that he has been admitted to practice in any of the aforesaid courts, and is still entitled to practice therein.

Sec. 3. There shall be but one attorney of record for the claimant in any case at any one time; but a claimant may be permitted to change his attorney on such conditions as the court may prescribe. A firm of attorneys will be regarded as the attorney of record.

Sec. 4. Petitions, pleadings, and motions on the part of the claimant will be signed by the attorney of record; pleadings and motions on the part of the United States by the Assistant Attorney-General.

Sec. 5. Attorneys of record, or the claimant if he appear in person, will, on commencing or appearing in a suit, register with the clerk of the court a post-office address, to which all notices required by these rules or ordered by the court may be address.d.

Sec. 6. Counsel other than the attorney of record, may be heard on either side at the trial or in any stage of the proceedings, but shall not be entitled to file pleadings, give notices, or make motions.

ARTICLE II.—The Petition.

Sec. 1. Suits will be commenced by petition, verified in the manner provided by law, and filed in the office of the clerk. The clerk will note the day of the filing of the petition thereon. Within twenty days thereafter, the claimant will file in the clerk's office twenty-five printed copies of such petition and note of filing.

Sec. 2. The petition must set forth—

1st. The title of the action, with the full Christian and surnames of all the claimants.

2d. A plain, concise statement of the facts and circumstances, giving place and date, free from argumentative and impertinent matter.

3d. The prayer, in which the claimant must state distinctly the amount for which he demands judgment, or the relief for which he prays.

Sec. 3. When the claimant cannot state his case with the requisite particularity without an examination of papers in one of the Executive Departments, and has been unable to obtain a sufficient examination of such papers on application, he may file a petition stating his claim as far as is in his power, and specifying as definitely as he can the papers he requires in order to enable him to

state his claim. The court will thereupon call upon the proper Department for such information or papers as it may deem necessary; and when the same are furnished, the petition may be amended, and the amended petition shall be printed and filed, and may take the place of the original petition.

SEC. 4. If the claimant be an executor, administrator, guardian, or other representative, appointed by a judicial tribunal, a duly authenticated copy of the record of the appointment must be filed with the petition at the commencement of the action.

SEC 5. If the claim be founded upon an act of Congress, or upon a regulation of an Executive Department, the act and the section thereof upon which the claimant relies must be specified, and the particular regulation of the Department must be stated in terms.

SEC. 6. If the claim be founded upon an express contract with the United States, such contract must be set forth in the petition, and, if it be in writing, must be annexed thereto. If it be founded upon an implied contract, the circumstances upon which the claimant relies to prove a contract must be specified. If it consists of several matters or items, each must be separately stated.

SEC. 7. If the petition be verified by the attorney at law or other agent of the claimant, a power of attorney authorizing him to make the verification must be filed with it.

SEC. 8. If a claimant desire to amend his petition at any time, he must set forth in his motion the specific amendments desired. If the motion be allowed, he must within twenty days thereafter file a copy of the petition, with the amendments properly incorporated therein, unless the court order otherwise.

SEC. 9 If the claimant die pending the suit, his death may be suggested on the record, and his proper representative may, on motion, and on filing a duly authenticated copy of the record of his appointment as executor or administrator be admitted to prosecute the suit.

ARTICLE III.—PLEAS.

SEC. 1. Demurrers to petitions and general traverses thereof must be filed within two months after the filing of the petition; and pleas averring special defense, set-off, or counter-claim, within one month after the claimant places his case on the notice-book.

SEC. 2. When the Attorney-General demurs to the petition, he must set forth the grounds of the demurrer specially; but if the ground be that the petition does not allege facts sufficient to constitute a cause of action, that objection may be stated generally.

If the demurrer be sustained, the claimant may, of right, amend his petition, within such time as the court may direct; but if he decline to amend, judgment will be rendered dismissing the petition. If the demurrer be overruled, the defendants may, of right, plead to the petition, within such time as the court may direct; but if they decline so to plead, judgment will be rendered for the claimant according to the prayer of the petition; or the court will order an assessment of damages, as the Attorney-General may elect.

SEC. 3. Within one month after the filing of a set-off or counter claim by the defendants, the claimant must answer the same by replication under oath; in default whereof the court may, after ten days' notice by the defendants to the claimant, order that the set-off or counter-claim be considered as admitted.

SEC. 4. When the Attorney-General pleads, under section 1086 of the Revised Statutes, that the claimant has practiced or attempted to practice fraud, he shall set forth the facts with sufficient particularity to enable the claimant to answer the same in detail; and the claimant shall, within two months after the filing of said plea, reply to the same with like particularity, under oath.

ARTICLE IV.—MOTIONS.

SEC. 1. Motions will be heard in the first instance before a Judge at chambers; but he may direct the same to be heard in open court. They must come to him through the clerk's office, and, when acted upon, will be returned there by him.

SEC. 2. Motions must be in writing, signed by the attorney of record, and

must give the title and number of the case and the term at which they are made; and in no case shall the clerk enter the motion unless this rule be complied with.

SEC. 3. No order will be entered by the clerk unless it be directed from the bench, or be reduced to writing and marked "Allowed" by the Chief Justice or one of the Judges.

SEC. 4. The clerk will not file any paper unless it be properly indorsed with the title and number of the suit and the name of the attorney filing it.

ARTICLE V.—SERVICE OF NOTICES.

SEC. 1. Parties filing petitions, pleadings, and motions, except motions for calls on Departments, must at the same time leave with the clerk written notice thereof, addressed to the attorney of the adverse party, with postage prepaid, and the clerk will mail the same and note the fact on the general docket. All other notices to adverse parties may be served in like manner. The clerk's entry on his docket will be *prima facie* evidence of the service. In the computation of time, the day of the service will be excluded, and the day on which a party is required to appear, or on which an act is required to be done, will be included.

ARTICLE VI.—WITNESSES.

SEC. 1. When a petition is filed, either party may proceed to take testimony, notwithstanding that issue of fact has not been joined or that issue on demurrer may be pending.

SEC 2. Unless the court order a witness to testify orally on the trial, the evidence of witnesses must be by deposition, taken either before a commissioner of the court, or a judge of a court of the United States, or a judge of a court of record in a State or Territory of the United States, or a commissioner appointed by a circuit court of the United States, or a notary public.

SEC. 3. When a witness can be conveniently examined before a judge of this court, either party, at any time prior to the examination, may move for an order directing that his deposition be so taken.

SEC. 4. If a witness, having been duly summoned and his fees tendered him, shall fail or refuse to appear and testify before any officer authorized to take his testimony, a rule upon him will be issued by the court on motion, to show cause why a fine should not be imposed upon him; and, if he fail to show sufficient cause, he shall be fined not exceeding one hundred dollars.

SEC. 5. The fees of witnesses shall be such as are now, or may hereafter be, prescribed by Congress, and shall be paid by the party at whose instance the witnesses appear.

SEC 6. The court may remand any case to the docket, and order a witness or a claimant to be produced before the court or one of the judges thereof for examination.

ARTICLE VII.—DEPOSITIONS ON WRITTEN INTERROGATORIES.

SEC 1. Depositions obtained in foreign countries must be taken on written interrogatories, sent out under a special commission issued by the clerk. Depositions may be taken in like manner within the United States, by consent of parties, or when authorized by the court, or by a judge in vacation. The written interrogatories must be filed in the clerk's office, and notice thereof given to the adverse party. Within fifteen days after such notice, the adverse party may file objections to any of the interrogatories, specifically stating the grounds of objection; and may either file cross interrogatories, or a notice that he will cross-examine the witnesses orally; which notice shall be attached to and sent out with the special commission. If he file cross-interrogatories, the other party may, within fifteen days thereafter, file objections thereto, specifically stating the grounds of objection. No objections to an interrogatory or a cross-interrogatory will be considered at the trial unless taken before the commission issues.

SEC. 2. When a deposition is taken upon written interrogatories and written cross interrogatories, neither the Attorney-General, nor the claimant, his agent or attorney, nor any other person, shall be present at the examination of the witness; which fact shall be certified by the officer taking the deposition; who

shall, in such cases, propound the interrogatories and cross-interrogatories to the witness in their order, and reduce his answers to writing as nearly as practicable in his precise words.

ARTICLE VIII.—DEPOSITIONS ON ORAL EXAMINATION.

SEC. 1. The party proposing to take depositions on oral examination shall cause fifteen days' notice to be given thereof to the other party. The notice must be in writing, and state the names of the witnesses to be examined, the day of the month, the hour, and the place of taking the deposition. When the claimant proposes to take a deposition, and the witness resides more than five hundred miles from Washington, or when the defendants propose to take the deposition, and the witness resides more than five hundred miles from the claimant or his attorney, one day's further notice shall be given for every additional hundred miles.

SEC. 2. If the claimant proposes to take a deposition in the city of Washington, three days' notice shall be sufficient; and a like notice by the defendants shall be sufficient when the claimant's attorney resides in the city of Washington.

SEC. 3. When a deposition is taken by oral examination, each question propounded to the witness must be recorded, and his answers must be taken down, as nearly as may be, in his own words.

SEC. 4. No general objection to any question shall be notice by the officer; but where an objection is made on specifically stated grounds, the officer shall record the same in direct connection with the question objected to.

SEC. 5. When depositions are taken on notice, as provided in section 1 of this article, if both parties are present or represented at the time and place specified in the notice, either party may, after the examination of the witnesses produced under the notice, be entitled to produce and examine other witnesses; but in order thereto one day's notice must be given to the adverse party, or his attorney, there present.

ARTICLE IX.—GENERAL PROVISIONS AS TO DEPOSITIONS.

SEC. 1. Witnesses must be sworn or affirmed, before any questions are put to them, to tell the truth, the whole truth, and nothing but the truth, relative to the cause in which they are to testify; and each witness shall then state his name, his occupation, his age, if under twenty-one years, his place of residence; whether he has any, and, if any, what, interest, direct or indirect, in the claim which is the subject of inquiry; and whether, and in what decree, he is related to the claimant. At the conclusion of the deposition, the witness shall state whether he knows of any other matter relative to the claim in question; and if he does, he shall state it. The testimony of the witness when completed shall be read over to him, and be signed by him in the presence of the officer.

SEC. 2. The officer should so connect the sheets of the deposition that they cannot be tampered with, and should return them sealed together. He should sign, and make the witness sign, each sheet; and generally he should spare no pains to return to the court the exact evidence he has taken. All exhibits should be carefully marked so as to be capable of immediate identification, and, when practicable, should be attached to the deposition under seal.

SEC. 3. The officer must state, in the caption of the deposition, the cause in which it was taken, the place and date of taking, the name of the witness, the party by whom called, and the names of the parties and counsel present. And in the body of the deposition must also be shown by whom the witness was examined and cross examined.

SEC. 4. In his return the officer must show that the witness was properly sworn or affirmed, and that the answers were taken down in his presence, and read over to and signed by the witness.

SEC. 5. The officer must inclose the commission, depositions, and exhibits in a packet, under his seal, and direct the same to the clerk of the court at Washington, and deposit the packet in the post office, or in an express-office, or he may transmit the same by a messenger, whose name shall be by him indorsed on the packet.

SEC. 6. If the officer's fees be not paid at the time of taking the deposition, he should indorse on the outside of the packet the gross amount of his fees and

disbursements, and inclose inside a detailed statement thereof. The packet must not be opened until the party for whom the depositions were taken deposits with the clerk the amount indorsed thereon. The clerk will then open the packet, and tax the officer's charges at the rates hereinafter provided, and will immediately transmit to him the amount taxed returning the overplus, if any, to the party. The money will be transmitted by draft or registered letter, and the clerk will retain his vouchers therefor.

SEC. 7. The fees shall be three dollars a day for attending to take the depositions, and twenty cents a folio of one hundred words for taking and returning it; but this *per diem* allowance is limited to one day for a deposition or series of depositions taken in the same case. Short hand reporters, acting as special commissioners, will receive, in addition to these fees, ten cents a folio for writing out the deposition from their notes.

SEC. 8. Any permanent commissioner charging in excess of the prescribed fees, except under a previous written agreement with the parties, will be deemed guilty of improper and illegal conduct, and his commission will be revoked.

SEC. 9. Objections to the notice, or the form and manner of taking or returning the testimony, must be made in writing, and filed within one month after notice of the filing of the deposition, or they will be considered as waived.

ARTICLE X.—EVIDENCE CERTIFIED FROM THE DEPARTMENT.

SEC. 1. The Attorney-General may offer in evidence properly certified information and papers from any Executive Department, without calling for the same under the provisions of section 1076 of the Revised Statutes. A call for such information and papers will be made at a claimant's request, on the approval of a Judge in chambers. On the receipt of an answer to the call, the clerk will notify the claimant's counsel and the Attorney-General by post.

SEC. 2. All information or papers furnished by an Executive Department in response to a call, or through the Attorney-General, is subject to objection by either party according to the rules of evidence at the common law; but neither party will be required to produce the originals of such papers, or to prove their execution, unless within one month after the return is filed the party objecting to such papers enter of record in the clerk's office a written denial of their genuineness.

SEC. 3. Whenever it is charged in a petition that a contract has been made or other liability incurred through an officer or agent of the United States, other than the head of an Executive Department or the chief of a bureau, the claimant will be required to prove that such person was an officer or agent of the United States, by the certificate of the proper Executive Department, or by other legal and sufficient evidence.

SEC. 4. Any information or papers certified from any Executive Department, and filed in any cause, may be used and applied in any other pending cause to which the same may be applicable or pertinent. To entitle such information or papers to be so used, copies thereof must be filed in such other cause before the same shall have been placed on the trial docket.

ARTICLE XI.—PRODUCTION OF ORIGINAL PAPERS BY THE CLAIMANT.

SEC. 1. The court may, at the instance of the Attorney-General, order any claimant, his agent or attorney, to produce in court, or before any officer authorized to take depositions, any letters, papers, deeds, documents, or other writings in his possession or subject to his control, in any way relating to the claim sued upon; and any claimant, his agent or attorney, who, after due notice, refuses to produce such letters, papers, deeds, documents, or other writings, when in his power to do so, shall be subject to attachment for contempt; and, if he persists in such refusal, the court will direct the petition to be dismissed.

ARTICLE XII.—BRIEFS AND REQUESTS FOR FINDINGS OF FACT.

SEC. 1. The claimant may at any time give notice to the Attorney General that his proof is closed, by an entry to that effect in the notice book in the clerk's office. If the Attorney-General shall not within two months thereafter file a request for further time to take proof, the claimant may, at any time after the expiration of that period, have the case placed on the trial list.

SEC. 2. The clerk shall not place a case on the trial list until the claimant files in the clerk's office twenty-five printed copies of a brief stating the points of law on which he relies, with references to authorities, and twenty-five printed copies of the requests for facts required by Rule V of the "Regulations prescribed by the Supreme Court of the United States under which appeals may be taken from the Court of Claims."

SEC. 3. Such request must be in the following terms: "*The claimant, considering the facts hereinafter set forth to be proven, and deeming them material to the due representation of this case in the findings of fact, requests the court to find the same, as follows:*"

Following this request must be a statement in the form of distinct numbered propositions, of the facts which the party desires to have found; and each proposition must be so prepared, with respect to its length, subject and phraseology, that the court may conveniently pass upon it; and they must be so arranged as to present a concise statement, in orderly and logical sequence; of the whole case, as the party desires it to appear in the findings of fact. Subjoined to each proposition must be references to the pages of the record containing the evidence relied on in its support; but no evidence must be set out. Documents which may enter into the findings of fact need not be presented in the statement, but may be referred to therein by the pages of the record.

SEC. 4. The Attorney-General, within one month after the filing of the claimant's brief and request, must file his brief and request for findings of fact, and should indicate the requests on the claimant's part to which no objection is made. Such request must be in form and substance like that required of the claimant by the next preceding section.

SEC. 5. If the claimant neglect, for two years after filing his petition, to close his proof and give notice to the Attorney-General, as required by section 1 of this article, the defendants may place the case on the trial list.

SEC. 6. Whenever, in any case which the claimant has not put on the trial list, it shall be shown to the court that an early decision thereof is important to the interests of the Government, the case may, in the discretion of the court, be placed on the trial list by the defendants.

ARTICLE XIII.—TRIALS AND OTHER PROCEEDINGS IN COURT.

SEC. 1. When the defendant's brief and request are filed the case will be considered as ready for trial, and, when reached, a continuance will not be ordered, except by consent of parties, or for good cause shown.

SEC. 2. The trial docket will be made up monthly. Cases will go upon it in the order in which notices of trial have been filed.

SEC. 3. The peremptory call of the trial docket will begin on the Tuesday after the first Monday of each month during the term.

SEC. 4. No case will be heard for trial unless the printed pleadings, evidence, and briefs be made up in book form together and paged consecutively, and a copy thereof furnished to each member of the court at the hearing; and all citations from, or references to, such pleadings, evidence, and briefs must be by the consecutive paging of such book.

SEC. 5. When, in any case, the record shall be made up in book form, as required in the next preceeding section, the chief clerk will make, cause to be printed, and prefix to each copy of the record so made up, a table of the contents thereof, with references to the page where each document and each piece of evidence may be found.

SEC. 6. The law docket will be taken up on Monday of each week during the term.

ARTICLE XIV.—PRINTING.

SEC. 1. The testimony and briefs will be printed. In printing the testimony, the notices and the officers' captions and certificates will be omitted; but to each deposition there must be prefixed a title in the following form: *Deposition of* —— *for claimant* [or defendant, as the case may be], *taken at* ——, *on the* —— *day of* ——, 18—; *claimant's counsel.* ——; *defendant's counsel,* ——.

SEC 2. Where an answer of a Department is printed as evidence, the call for the same must be printed therewith

SEC. 3. Before printing a return made to a call on a Department, the chief clerk will withhold from the copy for the printer, 1st, all papers of which copies have been previously printed in the record of the case; and for this purpose he will compare the two copies, and if variations are found he will take the directions of a Judge in chambers, before sending the return to the printer; 2d, all certificates of authenticity and certificates of acknowledgment; 3d, all papers which both parties agree to omit; 4th, all papers which a Judge in chambers orders to be omitted. In each case the chief clerk will make a memorandum of the omission in the copy for the printer, verified by his initials.

SEC. 4. If the claimant objects to printing information or papers so returned, and the Attorney-General requests to have the same printed, the clerk will note a memorandum of such request in the copy for the printer, with his initials attached; and when such information or papers are printed, the same will be regarded as evidence offered on the part of the defense. All information and papers transmitted from a Department in reply to a claimant's call, and not thus objected to by him within ten days after return of the call, will be regarded as evidence offered by the claimant.

SEC. 5. The printed papers required by these rules must be in long primer type and in royal octavo pages, and the style and number of the case must be prefixed to all printed papers and to records of evidence.

SEC. 6. No deposition, return, or record on file shall be taken from the custody of the clerk by a claimant or his attorney, but either may attend at the clerk's office, and prepare his evidence for the press in the form and manner before prescribed. When the evidence is complete and ready for the printer, the chief clerk will have it printed at the Public Printing Office.

SEC. 7. No examination of a claimant taken under Section 1080 of the Revised Statutes, shall be printed, unless the Attorney-General shall first have filed in the case a written declaration of his intention to read the same in evidence on the trial; and the filing of such declaration shall be considered as the exercise of the discretion vested in that officer by said section, and shall entitle the claimant to read the examination as evidence at the trial if the Attorney-General declines to do so, unless for good cause shown the court shall otherwise order.

ARTICLE XV.—LIMITATION.

SEC. 1. If it appear on the face of the petition that the claim first accrued more than six years before the petition was filed, the claimant must aver therein the existence and period of duration of some disability, recognized by law, which prevented his filing his petition within that time; in default whereof, it will be considered that no such disability existed, and the petition may be dismissed on motion.

SEC. 2. If the claimant, in avoidance of the bar of limitation, aver in his petition the existence and duration of any such disability, and it thereby appears that, after the disability ended, more than three years had elapsed before the petition was filed, the petition may be dismissed on motion.

SEC. 3. If upon the face of the petition it does not appear when the claim first accrued, the court may require the claimant to make the petition definite and certain in that regard, and in default thereof may dismiss the suit.

SEC. 4. Averments in regard to the time when a claim first accrued, or in regard to an alleged disability of the claimant, will be held to be put in issue by the defendant's general traverse.

ARTICLE XVI.—DISCONTINUANCE.

SEC. 1. Where fraud or set-off is pleaded, the claimant shall not, without leave of the court, discontinue his suit. In other cases he may do so, either in open court, or with the approval of a Judge, in vacation.

ARTICLE XVII.—NEW TRIAL.

SEC. 1. A new trial will not be granted where, upon the whole case, justice has been done between the parties and the judgment is substantially right, although there may have been some mistakes committed at the trial.

SEC. 2. A motion by a claimant for a new trial may be founded upon one or more of the following grounds: 1st. Error of fact; 2d. Error of law; and 3d.

Newly discovered evidence. It must be made at the term in which the judgment is rendered, and before the commencement of the long vacation.

SEC. 3. A motion founded upon an error of fact must specify with minuteness the fact or facts which are regarded as erroneously found or erroneously omitted to be found by the court, with full reference to the evidence which is relied on to support the motion.

SEC. 4. A motion founded upon error of law must specify with like minuteness the points upon which the court is supposed to have erred, with references to the authorities relied upon to support the motion.

SEC. 5. A motion upon the ground of newly discovered evidence will not be entertained unless it appear that the newly discovered evidence came to the knowledge of the claimant or his attorney after the trial and before the motion was made; that it was not for want of due diligence that it did not sooner come to his knowledge; that it is so material that it would probably produce a different judgment if the new trial were granted; and that it is not cumulative. Such motion must be accompanied by the affidavit of the claimant or his attorney of record, setting forth—

1st. The facts in detail which the claimant expects to be able to prove, and whether the same are to be proved by witnesses or by documentary evidence.

2d. The name, occupation, and residence of each and every witness whom it is proposed to call to prove said facts.

3d. That the said facts were unknown to either the claimant or his attorney of record, and, if other counsel was employed at the trial were unknown to such counsel, until after the close of the trial.

4th. The reasons why the claimant and his attorney of record and his said counsel could not have discovered said evidence before the trial, if due diligence had been used.

SEC. 6. If the court desires to hear argument upon a motion by a claimant for a new trial, the motion will be ordered to the law docket; otherwise the decision will be announced from the bench without hearing.

ARTICLE XVIII.—APPEALS.

SEC. 1. Application for appeal to the Supreme Court of the United States from any judgment or decree of this court must be in writing, and signed by the claimant or his attorney of record, if the appeal be on his behalf; or, if taken by the United States, it must be signed by the Attorney-General or his assistant.

SEC. 2. Such application, if made when the court is not in session, must be filed with the clerk, and the date of filing the same must be indorsed upon it and noted upon the general docket.

ARTICLE XIX.—CLERK'S OFFICE.

SEC. 1. During term time the clerk's office must be kept open every day, except Sundays and holidays, from 9½ a. m. to 4 p. m., or such later hours as the court may be in session or in conference. During the Christmas holidays, the office may be closed at 1 p. m., and in vacation at 3 p. m.

SEC. 2. When the court is in session, both the chief clerk and the assistant clerk will be at the office during office hours. In vacation they may arrange their hours to suit each other and the public business.

SEC. 3. The chief clerk will have charge of the journal of the court, of the law and trial dockets, of the printing, and of the preparation of the tables of contents of the records of each case; and he will also prepare the annual return to Congress.

SEC. 4. The assistant clerk will attend to office business, and will have charge of the general docket, the notice book, and the giving of notices under these rules.

SEC. 5. In the absence of the chief or assistant clerk, his duties will be temporarily performed by the other.

SEC. 6. Any one wishing to see any papers on file in the clerk's office will apply therefor to the chief or assistant clerk, who will take them from their place of deposit, and return them thereto when done with; and no such papers can be taken out of the clerk's office, except by authority of the court, or of one of the members thereof.

ARTICLE XX.—Withdrawal of Papers

SEC. 1. Papers shall not be withdrawn from the files except on motion for good cause shown, and upon such terms as the court or a Judge may order.

ARTICLE XXI.—Extension of Time.

SEC. 1. The time named in these rules for the doing of any act may be extended on motion for good cause shown.

ARTICLE XXII.—Departmental and Congressional Cases.

SEC. 1. Cases involving controverted questions of fact or law in any claim or matter, transmitted to the court under the provisions of section 2 of the act of March 3, 1883, entitled "An act to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government," shall be proceeded with, in like manner, and subject to the same rules, so far as applicable, as other cases in the court under its general jurisdiction, except as herein provided.

SEC. 2. When a case is so transmitted the clerk shall examine the papers and send notice thereof by mail to every person, whose post-office address is given, who appears therefrom to be directly interested therein and to the Attorney-General, noting the fact on the records, and specifying the names of the parties notified, and the date of notice.

SEC. 3. Within two months after mailing of such notices, or within such further time as the court may allow, any person directly interested in the case may appear as a party therein, by filing his petition, under oath, setting forth concisely and specifically his interest and claim.

SEC. 4. Any person claiming to be indirectly interested in any question involved in such case may, by leave of court, be permitted to appear and be heard on the one side or the other, as his interest may require, upon filing a petition, under oath, setting forth specifically and concisely how he claims to be so interested, and submitting the questions raised to the decision of the court.

SEC. 5. If no claimant, directly or indirectly interested appears and files his petition within said two months, the Attorney General, or Assistant Attorney-General charged with defending the Government in this court, may set the case down for trial upon such evidence as he may submit.

SEC. 6. When a case is transmitted to the court by either House of Congress, or a committee thereof, under the first section of said act, involving the investigation and determination of facts in any claim or matter, the clerk shall examine the papers and send notice by mail to every person, whose post-office address is given who appears therefrom to be directly interested therein, and to the Attorney-General, noting the fact on the record and specifying the names of the parties notified and the dates thereof.

SEC. 7. Within two months after the mailing of such notices, or within such further time as the court may allow, any person directly interested in the case may appear as a party therein, by filing his petition, under oath, setting forth concisely and specifically his claim and interest. Thereafter the case shall be proceeded with, in like manner, and subject to the same rules, so far as applicable, as other cases in the court under its general jurisdiction.

Adopted April 28, 1884

SEC. 8. In any case of a claim for supplies or stores taken by or furnished to any part of the military or naval forces of the United States for their use during the late war for the suppression of the rebellion, no testimony shall, without authority of the judge of the court or the consent of both parties be taken in regard to the merits of the claim until after the preliminary inquiry in regard to the claimant's loyalty, required by section 4 of the act aforesaid of March 3, 1883, shall have been decided in his favor.

SEC. 9. Cases in which the question of the claimant's loyalty is to be decided shall be brought upon the trial docket, in reference to that question, in the manner prescribed by section 1 of Article XII of the rules of this court. In such cases neither party shall be required to file a brief.

SEC. 10. If a claim which was at any time before the Commissioner of Claims, appointed under the act of March 3, 1871, and commonly called the "Southern Claims Commission," be transmitted to this court by either House of Congress, or by any committee thereof, under the said act of March 3, 1883, and with such claim there be transmitted depositions, which were duly taken in conformity with the rules of said Commission, such depositions may be used by either party as evidence at the preliminary inquiry aforesaid, or at the final hearing of the cause, or at both, subject to such objections to their competency or relevancy as might be made if the deponents were examined in open court, or their depositions were regularly taken under the rules of this court.

SEC. 11. If it be made to appear that, besides the depositions so transmitted, there are among the papers of said Commission other such depositions relating to claimant's loyalty, or to the merits of his claim, a judge of the court may authorize such depositions, or duly certified copies thereof, to be obtained and filed in the clerk's office of this court, to be used as evidence in the same manner and on the same terms as if they had been transmitted with the claim.

SEC. 12. To entitle either party to use as evidence any deposition under either of the two next preceding sections there must be given to the other party at least two months' notice of the intention so to use it.

SEC. 13. No such deposition shall be printed unless authorized by a judge of the court.

CHAPTER CXXXVII.

AN ACT to determine the jurisdiction of circuit courts of the United States, and to regulate the removal of causes from the State courts, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the circuit courts of the United States shall have original cognizance, concurrent with the courts of the several States, of all suits of a civil nature at common law or in equity, where the matter in dispute exceeds, exclusive of costs, the sum or value of five hundred dollars, and arising under the Constitution or laws of the United States, or treaties made, or which shall be made, under their authority, or in which the United States are plaintiffs or petitioners, or in which there shall be a controversy between citizens of different States or a controversy between citizens of the same State claiming lands under grants of different States, or a controversy between citizens of a State and foreign states, citizens, or subjects;

And shall have exclusive cognizance of all crimes and offences cognizable under the authority of the United States, except as otherwise provided by law, and concurrent jurisdiction with the district courts of the crimes and offences cognizable therein.

But no person shall be arrested in one district for trial in another in any civil action before a circuit or district court.

And no civil suit shall be brought before either of said courts against any person by any original process or proceeding in any other district than that whereof he is an inhabitant, or in which he shall be found at the time of serving such process or commencing such proceeding, except as hereinafter provided.

Nor shall any circuit or district court have cognizance of any suit founded on contract in favor of an assignee, unless a suit might have been prosecuted in such court to recover thereon if no assignment had been made, except in cases of promissory notes negotiable by the law merchant and bills of exchange.

And the circuit courts shall also have appellate jurisdiction from the district courts under the regulations and restrictions prescribed by law.

SEC 2. That any suit of a civil nature, at law or in equity, now pending or hereafter brought in any State court where the matter in dispute exceeds, exclusive of costs, the sum or value of five hundred dollars, and arising under the Constitution or laws of the United States, or treaties made, or which shall be made, under their authority, or in which the United States shall be plaintiff or petitioner, or in which there shall be a controversy between citizens of different States, or a controversy between citizens of the same State claiming lands under

grants of different States, or a controversy between citizens of a State and foreign States, citizens, or subjects, either party may remove said suit into the circuit court of the United States for the proper district.

And when in any suit mentioned in this section there shall be a controversy, which is wholly between citizens of different States, and which can be fully determined as between them, then either one or more of the plaintiffs or defendants actually interested in such controversy may remove said suit into the circuit court of the United States for the proper district.

SEC. 3. That whenever either party, or any one or more of the plaintiffs or defendants entitled to remove any suit mentioned in the next preceding section shall desire to remove such suit from a State court to the circuit court of the United States, he or they may make and file a petition in such suit in such State court before or at the term at which said cause could be first tried and before the trial thereof for the removal of such suit into the circuit court to be held in the district where such suit is pending, and shall make and file therewith a bond, with good and sufficient surety, for his or their entering in such circuit court, on the first day of its then next session, a copy of the record in such suit, and for paying all costs that may be awarded by the said circuit court, if said court shall hold that such suit was wrongfully or improperly removed thereto, and also for there appearing and entering special bail in such suit, if special bail was originally requisite therein, it shall then be the duty of the State court to accept said petition and bond, and proceed no further in such suit, and any bail that may have been originally taken shall be discharged; and the said copy being entered as aforesaid in said circuit court of the United States, the cause shall then proceed in the same manner as if it had been originally commenced in the said circuit court.

And if in any action commenced in a State court the title of land be concerned and the parties are citizens of the same State, and the matter in dispute exceed the sum or value of five hundred dollars, exclusive of costs, the sum or value being made to appear, one or more of the plaintiffs or defendants, before the trial, may state to the court, and make affidavit, if the court require it, that he or they claim and shall rely upon a right or title to the land under a grant from a State, and produce the original grant, or an exemplification of it, except where the loss of public records shall put it out of his or their power, and shall move that any one or more of the adverse party inform the court whether he or they claim a right or title to the land under a grant from some other State, the party or parties so required shall give such information, or otherwise not be allowed to plead such grant, or give it in evidence upon the trial; and if he or they inform that he or they do claim under such grant, any one or more of the party moving for such information may then, on petition and bond as hereinbefore mentioned in this act, remove the cause for trial to the circuit court of the United States next to be holden in such district.

And any one of either party removing the cause shall not be allowed to plead or give evidence of any other title than that by him or them stated as aforesaid as the ground of his or their claim.

And the trial of issues of fact in the circuit courts shall, in all suits except those of equity and of admiralty and maritime jurisdiction, be by jury.

SEC. 4 That when any suit shall be removed from a State court to a circuit court of the United States, any attachment or sequestration of the goods or estate of the defendant had in such suit in the State court shall hold the goods or estate so attached or sequestered to answer the final judgment or decree in the same manner as by law they would have been held to answer final judgment or decree had it been rendered by the court in which such suit was commenced.

And all bonds, undertakings, or security given by either party in such suit prior to its removal shall remain valid and effectual, notwithstanding said removal.

And all injunctions, orders, and other proceedings had in such suit prior to its removal shall remain in full force and effect until dissolved or modified by the court to which such suit shall be removed.

SEC. 5. That if, in any suit commenced in a circuit court, or removed from a State court to a circuit court of the United States, it shall appear to the satisfaction of said circuit court, at any time after such suit has been brought or removed thereto, that such suit does not really and substantially involve a dispute or controversy properly within the jurisdiction of said circuit court, or

that the parties to said suit have been improperly or collusively made or joined, either as plaintiffs or defendants, for the purpose of creating a case cognizable or removable under this act, the said circuit court shall proceed no further therein, but shall dismiss the suit or remand it to the court from which it was removed; as justice may require, and shall make such order as to costs as shall be just.

But the order of said circuit court dismissing or remanding said cause to the State court may be reviewable by the Supreme court on writ of error or appeal, as the case may be.

SEC. 6. That the circuit court of the United States shall, in all suits removed under the provisions of this act, proceed therein as if the suit had been originally commenced in said circuit court, and the same proceedings had been taken in such suit in said circuit court as shall have been had therein in said State court prior to its removal.

SEC. 7. That in all causes removable under this act, if he term of the circuit court to which the same is removable, then next to be holden, shall commence within twenty days after filing the petition and bond in the State court for its removal, then he or they who apply to remove the same shall have twenty days from such application to file said copy of record in said circuit court and enter appearance therein; and if done within said twenty days, such filing and appearance shall be taken to satisfy the said bond in that behalf.

That if the clerk of the State court in which any such cause shall be pending, shall refuse to any one or more of the parties or persons applying to remove the same, a copy of the record therein, after tender of legal fees for such copy, said clerk so offending shall be deemed guilty of a misdemeanor, and, on conviction thereof in the circuit court of the United States to which said action, or proceeding was removed, shall be punished by imprisonment not more than one year, or by fine not exceeding one thousand dollars, or both in the discretion of the court.

And the circuit court to which any cause, shall be removable under this act shall have power to issue a writ of certiorari to said State court commanding said State court to make return of the record in any such cause removed as aforesaid, or in which any one or more of the plaintiffs or defendants have complied with the provisions of this act for the removal of the same, and enforce said writ according to law;

And if it shall be impossible for the parties or persons removing any cause under this act, or complying with the provisions for the removal thereof, to obtain such copy, for the reason that the clerk of said State court refuses to furnish a copy, on payment of legal fees, or for any other reason, the circuit court shall make an order requiring the prosecutor in any such action or proceeding to enforce forfeiture or recover penalty as aforesaid, to file a copy of the paper or proceeding by which the same was commenced, within such time as the court may determine; and in default thereof the court shall dismiss the said action or proceeding;

But if said order shall be complied with, then said circuit court shall require the other party to plead, and said action, or proceeding shall proceed to final judgment; and the said circuit court may make an order requiring the parties thereto to plead de novo; and the bond given, conditioned as aforesaid, shall be discharged so far as it requires copy of the record to be filed as aforesaid.

SEC. 8. That when in any suit, commenced in any circuit court of the United States, to enforce any legal or equitable lien upon, or claim to, or to remove any incumbrance or lien or cloud upon the title to real or personal property within the district where such suit is brought, one or more of the defendants therein shall not be an inhabitant of, or found within, the said district, or shall not voluntarily appear thereto, it shall be lawful for the court to make an order directing such absent defendant or defendants to appear, plead, answer, or demur, by a day certain to be designated, which order shall be served on such absent defendant or defendants, if practicable, wherever found, and also upon the person or persons in possession or charge of said property, if any there be;

Or where such personal service upon such absent defendant or defendants is not practicable, such order shall be published in such manner as the court may direct, not less than once a week for six consecutive weeks;

And in case such absent defendant shall not appear, plead, answer, or demur within the time so limited, or within some further time, to be allowed by the

court, in its discretion, and upon proof of the service or publication of said order, and of the performance of the directions contained in the same, it shall be lawful for the court to entertain jurisdiction, and proceed to the hearing and adjudication of such suit in the same manner as if such absent defendant had been served with process within the said district;

But said adjudication shall, as regards said absent defendant or defendants without appearance, affect only the property which shall have been the subject of the suit and under the jurisdiction of the court therein, within such district;

And when a part of the said real or personal property against which such proceeding shall be taken shall be within another district, but within the same State, said suit may be brought in either district in said State:

Provided, however, That any defendant or defendants not actually personally notified as above provided may, at any time within one year after final judgment in any suit mentioned in this section, enter his appearance in said suit in said circuit court, and thereupon the said court shall make an order setting aside the judgment therein, and permitting said defendant or defendants to plead therein on payment by him or them of such costs as the court shall deem just: and thereupon said suit shall be proceeded with to final judgment according to law.

SEC. 9. That whenever either party to a final judgment or decree which has been or shall be rendered in any circuit court has died or shall die before the time allowed for taking an appeal or bringing a writ of error has expired, it shall not be necessary to revive the suit by any formal proceedings aforesaid.

The representative of such deceased party may file in the office of the clerk of such circuit court a duly certified copy of his appointment and thereupon may enter an appeal or bring writ of error as the party he represents might have done.

If the party in whose favor such judgment or decree is rendered has died before appeal taken or writ of error brought, notice to his representatives shall be given from the Supreme Court, as provided in case of the death of a party after appeal taken or writ of error brought.

SEC. 10. That all acts and parts of acts in conflict with the provisions of this act are hereby repealed. [*March* 3, 1875.]

[PUBLIC—No. 159.]

AN ACT to amend the act of Congress approved March third, eighteen hundred and seventyfive, entitled "An act to determine the jurisdiction of circuit courts of the United States, and to regulate the removal of causes from State courts, and for other purposes and to further regulate the jurisdiction of circuit courts of the United States, and for other purposes."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of an act entitled "An act to determine the jurisdiction of circuit courts of the United States, and to regulate the removal of causes from State courts, and for other purposes," approved March third, eighteen hundred and seventy-five, be, and the same is hereby, amended so as to read as follows: "That the circuit courts of the United States shall have original cognizance, concurrent with the courts of the several States, of all suits of a civil nature, at common law or in equity, where the matter in dispute exceeds, exclusive of interest and costs, the sum or value of two thousand dollars, and arising under the constitution or laws of the United States, or treaties made, or which shall be made, under their authority, or in which controversy the United States are plaintiffs or petitioners, or in which there shall be a controversy between citizens of different States, in which the matter in dispute exceeds, exclusive of interest and costs, the sum or value aforesaid, or a controversy between citizens of the same State, claiming lands under grants of different States, or a controversy between citizens of a State and foreign states, citizens, or subjects, in which the matter in dispute exceeds, exclusive of interest and costs, the sum or value aforesaid, and shall have exclusive cognizance of all crimes and offenses cognizable under the authority of the United States, except as otherwise provided by law, and concurrent jurisdiction with the district courts of the crimes and offenses cognizable by them. But no person shall be arrested in one district for trial in another in any civil action before a circuit or district court; and no civil suit shall be brought before either of said courts against any person by any original process of proceeding in any

other district than that whereof he is an inhabitant; but where the jurisdiction is founded only on the fact that the action is between citizens of different States, suit shall be brought only in the district of the residence of either the plaintiff or the defendant; nor shall any circuit or district court have cognizance of any suit except upon foreign bills of exchange; to recover the contents of any promissory note or other chose in action in favor of any assignee, or of any subsequent holder of such instrument be payable to bearer and be not made by any corporation, unless such suit might have been prosecuted in such court to recover, the said contents if no assignment or transfer had been made; and the circuit courts shall also have appellate jurisdiction from the district courts, under the regulations and restrictions prescribed by law."

"SEC. 2. That any suit of a civil nature, at law or in equity, arising under the Constitution or laws of the United States, or treaties made, or which shall be made, under their authority, of which the circuit courts of the United States are given original jurisdiction by the preceding section, which may now be pending, or which may hereafter be brought, in any State court, may be removed by the defendant or defendants therein to the circuit court of the United States for the proper district; any other suit of a civil nature, at law or in equity, of which the circuit courts of the United States are given jurisdiction by the preceding section, and which are now pending, or which may hereafter be brought in any State court, may be removed into the circuit court of the United States for the proper district by the defendant or defendants therein being nonresidents of that State; and when in any suit mentioned in this section there shall be a controversy which is wholly between the citizens of different States, and which can be fully determined as between them, then either one or more of the defendants actually interested in such controversy may remove said suit into the circuit court of the United States, for the proper district. And where a suit is now pending, or may be hereafter brought, in any State court, in which there is a controversy between a citizen of the State in which the suit is brought and a citizen of another State, any defendant, being such citizen of another State, may remove such suit into the circuit court of the United States for the proper district, at any time before the trial thereof, when it shall be made to appear to said circuit court that from prejudice or local influence he will not be able to obtain justice in such State court, or in any other State court to which the said defendant may, under the laws of the State, have the right, on account of such prejudice or local influence, to remove said cause: *Provided*, That if it further appear that said suit can be fully and justly determined as to the other defendants in the State court, without being affected by such prejudice or local influence, and that no party to the suit will be prejudiced by a separation of the parties, said circuit court may direct the suit to be remanded, so far as relates to such other defendants, to the State court, to be proceeded with therein. "At any time before the trial of any suit which is now pending in any circuit court or may hereafter be entered therein, and which has been removed to said court from a State court on the affidavit of any party plaintiff that he had reason to believe and did believe that, from prejudice or local influence, he was unable to obtain justice in said State court, the circuit court shall, on application of the other party examine into the truth of said affidavit and the grounds thereof, and, unless it shall appear to the satisfaction of said court that said party will not be able to obtain justice in such State court, it shall cause the same to be remanded thereto. "Whenever any cause shall be removed from any State court into any circuit court of the United States, and the circuit court shall decide that the cause was improperly removed, and order the same to be remanded to the State court from whence it came, such remand shall be immediately carried into execution, and no appeal or writ of error from the decision of the circuit court so remanding such cause shall be allowed."

That section three of said act be, and the same is hereby, amended so as to read as follows:

SEC. 3. That whenever any party entitled to remove any suit mentioned in the next preceding section, except in such cases as are provided for in the last clause of said section, may desire to remove such suit from a State court to the circuit court of the United States, he may make and file a petition in such suit in such State court at the time, or any time before the defendant is required by the laws of the State or the rule of the State court in which such suit is brought to answer or plead to the declaration or complaint of the plaintiff, for the removal of

such suit into the circuit court to be held in the district where such suit is pending, and shall make and file therewith a bond, with good and sufficient surety, for his or their entering in such circuit court; on the first day of its then next session a copy of the record in such suit, and for paying all costs that may be awarded by the said circuit court if said court shall hold that such suit was wrongfully or improperly removed thereto, and also for their appearing and entering special bail in such suit if special bail was originally requisite therein. It shall then be the duty of the State court to accept said petition and bond, and proceed no further in such suit and the said copy being entered as aforesaid in said circuit court of the United States, the cause shall then proceed in the same manner, as if it had been originally commenced in the said circuit court; and if in any action commenced in a State court the title of land be concerned, and the parties are citizens of the same State, and the matter in dispute exceed the sum or value of two thousand dollars, exclusive of interest and costs, the sum or value being made to appear, one or more of the plaintiffs or defendants, before the trial, may state to the court, and make affidavit if the court require it, that he or they claim and shall rely upon a right or title to the land under a grant from a State, and produce the original grant, or an exemplification of it, except where the loss of public records shall put it out of his or their power, and shall move that any one or more of the adverse party inform the court whether he or they claim a right or title to the land under a grant from some other State, the party or parties so required shall give such information, or otherwise not be allowed to plead such grant or give it in evidence upon the trial; and if he or they inform that he or they do claim such grant, any one or more of the party moving for such information may then, on petition and bond, as hereinbefore mentioned in this act, remove the cause for trial to the circuit court of the United States next to be holden in such district; and any one of either party removing the cause shall not be allowed to plead or give evidence of any other title than that by him or them stated as aforesaid as the ground of his or their claim.

SEC. 2. That whenever in any cause pending in any court of the United States there shall be a receiver or manager in possession of any property such receiver or manager shall manage and operate such property according to the requirements of the valid laws of the State in which such property shall be situated in the same manner the owner or possessor thereof would be bound to do if in possession thereof. Any receiver or manager who shall willfully violate the provisions of this section shall be deemed guilty of a misdemeanor, and shall, on conviction thereof be punished by a fine not exceeding three thousand dollars, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

SEC. 3. That every receiver or manager of any property appointed by any court of the United States may be sued in respect of any act or transaction of his in carrying on the business connected with such property, without the previous leave of the court in which such receiver or manager was appointed; but such suit shall be subject to the general equity jurisdiction of the court in which such receiver or manager was appointed, so far as the same shall be necessary to the ends of justice.

SEC. 4. That all national banking associations established under the laws of the United States shall, for the purpose of all actions by or against them, real, personal or mixed, and all suits in equity, be deemed citizens of the States in which they are respectively located; and in such cases the circuit and district courts shall not have jurisdiction other than such as they would have in cases between individual citizens of the same State.

The provisions of this section shall not be held to affect the jurisdiction of the courts of the United States in cases commenced by the United States or by direction of any officer thereof, or cases for winding up the affairs of any such bank.

SEC. 5. That nothing in this act shall be held, deemed, or construed to repeal or affect any jurisdiction or right mentioned either in sections six hundred and forty-one, or in six hundred and forty-two, or in six hundred and forty-three, or in seven hundred and twenty-two, or in title twenty-four of the Revised Statutes of the United States, or mentioned in section eight of the act of Congress of which this act is an amendment, or in the act of Congress approved March first,

eighteen hundred and seventy five, entitled "An act to protect all citizens in their civil or legal rights."

SEC. 6. That the last paragraph of section five of the act of Congress approved March third, eighteen hundred and seventy-five, entitled "An act to determine the jurisdiction of circuit courts of the United States, and to regulate the removal of causes from State courts, and for other purposes," and section six hundred and forty of the Revised Statutes, and all laws and parts of laws in conflict with the provisions of this act, be, and the same are hereby repealed: *Provided*, That this act shall not affect the jurisdiction over or disposition of any suit removed from the court of any State, or suit commenced in any court of the United States, before the passage hereof except as otherwise expressly provided in this act.

SEC. 7. That no person related to any justice or judge of any court of the United States by affinity or consanguinity, within the degree of first cousin, shall hereafter be appointed by such court or judge to, or employed by such court or judge in any office or duty in any court of which such justice or judge may be a member.

Approved, March 3, 1887.

[PUBLIC—No. 145.]

AN ACT to provide for the bringing of suits against the Government of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Court of Claims shall have jurisdiction to hear and determine the following matters.

First. All claims founded upon the Constitution of the United States or any law of Congress, except for pensions, or upon any regulation of an Executive Department, or upon any contract, express or implied, with the Government of the United States, or for damages, liquidated or unliquidated, in cases not sounding in tort, in respect of which claims the party would be entitled to redress against the United States either in a court of law, equity, or admiralty if the United States were suable: *Provided, however*, That nothing in this section shall be construed as giving to either of the courts herein mentioned, jurisdiction to hear and determine claims growing out of the late civil war, and commonly known as "war claims," or to hear and determine other claims, which have heretofore been rejected, or reported on adversely by any court, Department, or commission authorized to hear and determine the same

Second. All set-offs, counter-claims, claims for damages, whether liquidated or unliquidated, or other demands whatsoever on the part of the Government of the United States against any claimant against the Government in said court: *Provided*, That no suit against the Government of the United States shall be allowed under this act unless the same shall have been brought within six years after the right accrued for which the claim is made.

SEC. 2. That the district courts of the United States shall have concurrent jurisdiction with the Court of Claims as to all matters named in the preceding section where the amount of the claim does not exceed one thousand dollars, and the circuit courts of the United States shall have such concurrent jurisdiction in all cases where the amount of such claim exceeds one thousand dollars and does not exceed ten thousand dollars. All causes brought and tried under the provisions of this act shall be tried by the court without a jury.

SEC. 3. That whenever any person shall present his petition to the Court of Claims alleging that he is or has been indebted to the United States as an officer or agent thereof, or by virtue of any contract therewith, or that he is the guarantor, or surety, or personal representative of any officer, or agent, or contractor so indebted, or that he, or the person for whom he is such surety, guarantor, or personal representative has held any office or agency under the United States, or entered into any contract therewith, under which it may be or has been claimed that an indebtedness to the United States has arisen and exists, and that he or the person he represents has applied to the proper Department of the Government requesting that the account of such office, agency, or indebtedness may be adjusted and settled, and that three years have elapsed from the date of such application and said account still remains unsettled and unadjusted, and that no suit upon the same has been brought by the United States, said court shall, due notice first being given to the head of said Department

and to the Attorney-General of the United States, proceed to hear the parties and to ascertain the amount, if any, due the United States on said account. The Attorney-General shall represent the United States at the hearing of said cause. The court may postpone the same from time to time whenever justice shall require. The judgment of said court or of the Supreme Court of the United States, to which an appeal shall lie, as in other cases, as to the amount due, shall be binding and conclusive upon the parties. The payment of such amount so found due by the court shall discharge such obligation. An action shall accrue to the United States against such principal, or surety, or representative to recover the amount so found due, which may be brought at any time within three years after the final judgment of said court. Unless suit shall be brought within said time, such claim and the claim on the original indebtedness shall be forever barred.

SEC. 4. That the jurisdiction of the respective courts of the United States proceeding under this act, including the right of exception and appeal, shall be governed by the law now in force, in so far as the same is applicable and not inconsistent with the provisions of this act; and the course of procedure shall be in accordance with the established rules of said respective courts, and of such additions and modifications thereof as said courts may adopt.

SEC. 5. That the plaintiff in any suit brought under the provisions of the second section of this act shall file a petition, duly verified with the clerk of the respective court having jurisdiction of the case, and in the district where the plaintiff resides. Such petition shall set forth the full name and residence of the plaintiff, the nature of his claim, and a succinct statement of the facts upon which the claim is based, the money or any other thing claimed, or the damages sought to be recovered and praying the court for a judgment or decree upon the facts and law.

SEC. 6. That the plaintiff shall cause a copy of his petition filed under the preceding section to be served upon the district attorney of the United States in the district wherein suit is brought, and shall mail a copy of the same, by registered letter, to the Attorney-General of the United States, and shall thereupon cause to be filed with the clerk of the court wherein suit is instituted an affidavit of such service and the mailing of such letter. It shall be the duty of the district attorney upon whom service of petition is made as aforesaid to appear and defend the interests of the Government in the suit, and within sixty days after the service of petition upon him, unless the time should be extended by order of the court made in the case to file a plea, answer, or demurrer on the part of the Government, and to file a notice of any counter-claim, set-off, claim for damages, or other demand or defense whatsoever of the Government in the premises: *Provided*, That should the district attorney neglect or refuse to file the plea, answer, demurrer, or defense, as required, the plaintiff may proceed with the case under such rules as the court may adopt in the premises; but the plaintiff shall not have judgment or decree for his claim, or any part thereof, unless he shall establish the same by proof satisfactory to the court.

SEC. 7. That it shall be the duty of the court to cause a written opinion to be filed in the cause, setting forth the specific findings by the court of the facts therein and the conclusions of the court upon all questions of law involved in the case, and to render judgment thereon. If the suit be in equity or admiralty, the court shall proceed with the same according to the rules of such courts.

SEC. 8. That in the trial of any suit brought under any of the provisions of this act, no person shall be excluded as a witness because he is a party to or interested in said suit; and any plaintiff or party in interest may be examined as a witness on the part of the Government.

Section ten hundred and seventy-nine of the Revised Statutes is hereby repealed. The provisions of section ten hundred and eighty of the Revised Statutes shall apply to cases under this act.

SEC. 9. That the plaintiff or the United States, in any suit brought under the provisions of this act shall have the same rights of appeal or writ of error as are now reserved in the statutes of the United States in that behalf made, and upon the conditions and limitations therein contained. The modes of procedure in claiming and perfecting an appeal or writ of error shall conform in all respects, and as near as may be, to the statutes and rules of court governing appeals and writs of error in like causes.

SEC. 10. That when the findings of fact and the law applicable thereto have been filed in any case as provided in section six of this act, and the judgment or decree is adverse to the Government, it shall be the duty of the district attorney to transmit to the Attorney-General of the United States certified copies of all the papers filed in the cause, with a transcript of the testimony taken the written findings of the court, and his written opinion as to the same; whereupon the Attorney-General shall determine and direct whether an appeal or writ of error shall be taken or not; and when so directed the district attorney shall cause an appeal or writ of error to be perfected in accordance with the terms of the statutes and rules of practice governing the same: *Provided*, That no appeal or writ of error shall be allowed after six months from the judgment or decree in such suit From the date of such final judgment or decree interest shall be computed thereon, at the rate of four per centum per annum until the time when an appropriation is made for the payment of the judgment or decree.

SEC. 11. That the Attorney General shall report to Congress, and at the beginning of each session of Congress, the suits under this act in which a final judgment or decree has been rendered giving the date of each, and a statement of the costs taxed in each case.

SEC. 12. That when any claim or matter may be pending in any of the Executive Departments which involves controverted questions of fact or law, the head of such Department, with the consent of the claimant, may transmit the same with the vouchers, papers, proofs, and documents pertaining thereto, to said Court of Claims, and the same shall be there proceeded in under such rules as the court may adopt. When the facts and conclusions of law shall have been found, the court shall report its findings to the Department by which it was transmitted.

SEC. 13. That in every case which shall come before the Court of Claims, or is now pending therein, under the provisions of an act entitled "An act to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government," approved March third, eighteen hundred and eighty-three, if it shall appear to the satisfaction of the court, upon the facts established, that it has jurisdiction to render judgment or decree thereon under existing laws or under the provisions of this act, it shall proceed to do so, giving to either party such further opportunity for hearing as in its judgment justice shall require, and report its proceedings therein to either House of Congress or to the Department by which the same was referred to said court.

SEC. 14. That whenever any bill, except for a pension, shall be pending in either House of Congress providing for the payment of a claim against the United States, legal or equitable, or for a grant, gift, or bounty to any person, the House in which such bill is pending may refer the same to the Court of Claims who shall proceed with the same in accordance with the provisions of the act approved March third, eighteen hundred and eighty-three, entitled an "Act to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government," and report to such House the facts in the case and the amount, where the same can be liquidated, including any facts bearing upon the question whether there has been delay or laches in presenting such claim or applying for such grant, gift, or bounty, and any facts bearing upon the question whether the bar of any statute of limitation should be removed or which shall be claimed to excuse the claimant for not having resorted to any established legal remedy.

SEC. 15. If the Government of the United States shall put in issue the right of the plaintiff to recover, the court may, in its discretion, allow costs to the prevailing party from the time of joining such issue. Such costs, however, shall include only what is actually incurred for witnesses, and for summoning the same, and fees paid to the clerk of the court.

SEC. 16. That all laws and parts of laws inconsistent with this act are hereby repealed.

Approved, March 3, 1887.

INTERSTATE COMMERCE.

[PUBLIC—No. 41.]

AN ACT to regulate commerce.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of this act shall apply to any common carrier or carriers engaged in the transportation of passengers or property wholly by railroad, or partly by railroad and partly by water when both are used, under a common control, management, or arrangement, for a continuous carriage or shipment, from one State or Territory of the United States, or the District of Columbia, to any other State or Territory of the United States, or the District of Columbia, or from any place in the United States to an adjacent foreign country, or from any place in the United States through a foreign country to any other place in the United States, and also to the transportation in like manner of property shipped from any place in the United States to a foreign country and carried from such place to a port of trans-shipment, or shipped from a foreign country to any place in the United States and carried to such place from a port of entry either in the United States or an adjacent foreign country: *Provided, however*, That the provisions of this act shall not apply to the transportation of passengers or property, or to the receiving, delivering, storage, or handling of property, wholly within one State, and not shipped to or from a foreign country from or to any State or Territory as aforesaid.

The term "railroad" as used in this act shall include all bridges and ferries used or operated in connection with any railroad, and also all the road in use by any corporation operating a railroad, whether owned or operated under a contract, agreement, or lease; and the term "transportation" shall include all instrumentalities of shipment or carriage.

All charges made for any service rendered, or to be rendered, in the transportation of passengers or property as aforesaid, or in connection therewith, or for the receiving, delivering, storage, or handling of such property, shall be reasonable and just; and every unjust and unreasonable charge for such service is prohibited and declared to be unlawful.

SEC. 2. That if any common carrier subject to the provisions of this act shall directly or indirectly, by any special rate, rebate, drawback, or other device, charge, demand, collect, or receive from any person or persons a greater or less compensation for any service rendered, or to be rendered, in the transportation of passengers or property, subject to the provisions of this act, than it charges, demands, collects, or receives from any other person or persons for doing for him or them a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions, such common carrier shall be deemed guilty of unjust discrimination, which is hereby prohibited and declared to be unlawful.

SEC. 3 That it shall be unlawful for any common carrier subject to the provisions of this act to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, or any particular description of traffic, in any respect whatsoever, or to subject any particular person, company, firm, corporation, or locality, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

Every common carrier subject to the provisions of this act shall, according to their respective powers, afford all reasonable, proper, and equal facilities for the interchange of traffic between their respective lines, and for the receiving, forwarding, and delivering of passengers and property to and from their several lines and those connecting therewith, and shall not discriminate in their rates and charges between such connecting lines; but this shall not be construed as requiring any such common carrier to give the use of its tracts or terminal facilities to another carrier engaged in like business.

SEC. 4. That it shall be unlawful for any common carrier subject to the provisions of this act to charge or receive any greater compensation in the aggregate for the transportation of passengers or of like kind of property, under substantially similar circumstances and conditions, for a shorter than for a longer distance over the same line, in the same direction, the shorter being included with-

in the longer distance; but this shall not be construed as authorizing any common carrier within the terms of this act to charge and receive as great compensation for a shorter as for a longer distance: *Provided, however*, That upon application to the Commission appointed under the provisions of this act, such common carriers may, in special cases, after investigation by the Commission, be authorized to charge less for longer than for shorter distances for the transportation of passengers or property; and the Commission may from time to time prescribe the extent to which such designated common carrier may be relieved from the operation of this section of this act.

SEC. 5. That it shall be unlawful for any common carrier subject to the provisions of this act to enter into any contract, agreement, or combination with any other common carrier or carriers for the pooling of freights of different and competing railroads, or to divide between them the aggregate or net proceeds of the earnings of such railroads, or any portion thereof; and in any case of an agreement for the pooling of freights as aforesaid, each day of its continuance shall be deemed a separate offense.

SEC. 6. That every common carrier subject to the provisions of this act shall print and keep for public inspection schedules showing the rates and fares and charges for the transportation of passengers and property which any common carrier has established and which are in force at the time upon its railroad, as defined by the first section of this act. The schedules printed as aforesaid by any such common carrier shall plainly state the places upon its railroad, between which property and passengers will be carried, and shall contain the classification of freight in force upon such railroad, and shall also state separately the terminal charges and any rules or regulations which in any wise change, affect, or determine any part or the aggregate of such aforesaid rates and fares and charges. Such schedules shall be plainly printed in large type, of at least the size of ordinary pica, and copies for the use of the public shall be kept in every depot or station upon any such railroad, in such places and in such form that they can be conveniently inspected.

Any common carrier subject to the provisions of this act receiving freight in the United States to be carried through a foreign country to any place in the United States shall also in like manner print and keep for public inspection, at every depot where such freight is received for shipment, schedules showing the through rates established and charged by such common carrier to all points in the United States beyond the foreign country to which it accepts freight for shipment; and any freight shipped from the United States through a foreign country into the United States, the through rate on which shall not have been made public as required by this act, shall before it is admitted into the United States from said foreign country, be subject to customs duties as if said freight were of foreign production; and any law in conflict with this section is hereby repealed.

No advance shall be made in the rates, fares, and charges which have been established and published as aforesaid by any common carrier in compliance with the requirements of this section, except after ten days' public notice which shall plainly state the changes proposed to be made in the schedule then in force, and the time when the increased rates, fares, or charges will go into effect; and the proposed changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept for public inspection. Reductions in such published rates, fares, or charges may be made without previous public notice; but whenever any such reduction is made, notice of the same shall immediately be publicly posted and the changes made shall immediately be made public by printing new schedules, or shall immediately be plainly indicated upon the schedules at the time in force and kept for public inspection.

And when any such common carrier shall have established and published its rates, fares, and charges in compliance with the provisions of this section, it shall be unlawful for such common carrier to charge, demand, collect, or receive from any person or persons a greater or less compensation for the transportation of passengers or property, or for any services in connection therewith, than is specified in such published schedule of rates, fares, and charges as may at the time be in force.

Every common carrier subject to the provisions of this act shall file with the Commission hereinafter provided for copies of its schedules of rates, fares,

and charges which have been established and published in compliance with the requirements of this section, and shall promptly notify said Commission of all changes made in the same. Every such common carrier shall also file with said Commission copies of all contracts, agreements, or arrangements with other common carriers in relation to any traffic affected by the provisions of this act to which it may be a party. And in cases where passengers and freight pass over continuous lines or routes operated by more than one common carrier, and the several common carriers operating such lines or routes establish joint tariffs of rates or fares or charges for such continuous lines or routes, copies of such joint tariffs shall also, in like manner, be filed with said Commission. Such joint rates, fares, and charges on such continuous lines so filed as aforesaid shall be made public by such common carriers when directed by said Commission, in so far as may, in the judgment of the Commission, be deemed practicable; and said Commission shall from time to time prescribe the measure of publicity which shall be given to such rates, fares, and charges, or to such part of them as it may deem it practicable for such common carriers to publish, and the places in which they shall be published; but no common carrier party to any such joint tariff shall be liable for the failure of any other common carrier party thereto to observe and adhere to the rates, fares, or charges thus made and published.

If any such common carrier shall neglect or refuse to file or publish its schedules or tariffs of rates, fares, or charges as provided in this section, or any part of the same, such common carrier shall, in addition to other penalties herein prescribed, be subject to a writ of mandamus, to be issued by any circuit court of the United States in the judicial district wherein the principal office of said common carrier is situated or wherein such offense may be committed, and if such common carrier be a foreign corporation, in the judicial circuit wherein such common carrier accepts traffic and has an agent to perform such service, to compel compliance with the aforesaid provisions of this section; and such writ shall issue in the name of the people of the United States, at the relation of the Commissioners, appointed under the provisions of this act; and failure to comply with its requirements shall be punishable as and for a contempt; and the said Commissioners, as complainants, may also apply, in any such circuit court of the United States, for a writ of injunction against such common carrier, to restrain such common carrier from receiving or transporting property among the several States and Territories of the United States, or between the United States and adjacent foreign countries, or between ports of transshipment and of entry and the several States and Territories of the United States, as mentioned in the first section of this act, until such common carrier shall have complied with the aforesaid provisions of this section of this act.

SEC. 7. That it shall be unlawful for any common carrier subject to the provisions of this act to enter into any combination, contract, or agreement, expressed or implied, to prevent, by change of time schedule, carriage in different cars, or by other means or devices, the carriage of freights from being continuous from the place of shipment to the place of destination; and no break of bulk, stoppage, or interruption made by such common carrier shall prevent the carriage of freights from being and being treated as one continuous carriage from the place of shipment to the place of destination, unless such break, stoppage, or interruption was made in good faith for some necessary purpose, and without any intent to avoid or unnecessarily interrupt such continuous carriage or to evade any of the provisions of this act.

SEC. 8. That in case any common carrier subject to the provisions of this act shall do, cause to be done, or permit to be done any act, matter, or thing in this act prohibited or declared to be unlawful, or shall omit to do any act, matter, or thing in this act required to be done, such common carrier shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of any such violation of the provisions of this act, together with a reasonable counsel or attorney's fee, to be fixed by the court in every case of recovery, which attorney's fee shall be taxed and collected as part of the costs in the case.

SEC. 9. That any person or persons claiming to be damaged by any common carrier subject to the provisions of this act may either make complaint to the Commission as hereinafter provided for, or may bring suit in his or their own behalf for the recovery of the damages for which such common carrier may be

liable under the provisions of this act, in any district or circuit court of the United States of competent jurisdiction; but such person or persons shall not have the right to pursue both of such remedies, and must in each case elect which one of the two methods of procedure herein provided for he or they will adopt. In any such action brought for the recovery of damages, the court before which the same shall be pending may compel any director, officer, receiver, trustee, or agent of the corporation or company defendant in such suit to attend, appear, and testify in such case, and may compel the production of the books and papers of such corporation or company party to any such suit; the claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such witness from testifying, but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding.

SEC. 10. That any common carrier subject to the provisions of this act, or, whenever such common carrier is a corporation, any director or officer thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by such corporation, who, alone or with any other corporation, company, person, or party, shall willfully do or cause to be done, or shall willingly suffer or permit to be done, any act, matter, or thing in this act prohibited or declared to be unlawful, or who shall aid or abet therein, or shall willfully omit or fail to do any act, matter, or thing in this act required to be done, or shall cause or willingly suffer or permit any act, matter, or thing so directed or required by this act to be done not to be so done, or shall aid or abet any such omission or failure, or shall be guilty of any infraction of this act, or shall aid or abet therein, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any district court of the United States within the jurisdiction of which such offense was committed, be subject to a fine of not to exceed five thousand dollars for each offense.

SEC. 11. That a Commission is hereby created and established to be known as the Inter-State Commerce Commission, which shall be composed of five Commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. The Commissioners first appointed under this act shall continue in office for the term of two, three, four, five, and six years, respectively from the first day of January, anno Domini eighteen hundred and eighty-seven, the term of each to be designated by the President; but their successors shall be appointed for terms of six years; except that any person chosen to fill a vacancy shall be appointed only for the unexpired time of the Commissioner whom he shall succeed. Any Commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. Not more than three of the Commissioners shall be appointed from the same political party. No person in the employ of or holding any official relation to any common carrier subject to the provisions of this act, or owning stock or bonds thereof, or who is in any manner pecuniarily interested therein, shall enter upon the duties of or hold such office. Said Commissioner shall not engage in any other business, vocation, or employment. No vacancy in the Commission shall impair the right of the remaining Commissioners to exercise all the powers of the Commission.

SEC. 12. That the Commission hereby created shall have authority to inquire into the management of the business of all common carriers subject to the provisions of this act, and shall keep itself informed as to the manner and method in which the same is conducted, and shall have the right to obtain from such common carriers full and complete information necessary to enable the Commission to perform the duties and carry out the objects for which it was created; and for the purposes of this act the Commission shall have power to require the attendance and testimony of witnesses and the production of all books, papers, tariffs, contracts, agreements, and documents relating to any matter under investigation, and to that end may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of books, papers, and documents under the provisions of this section.

And any of the circuit courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpœna issued to any common carrier subject to the provisions of this act, or other person, issue an order requiring such common carrier or other person to appear before said Commission (and produce books and papers if so ordered) and

give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. The claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such witness from testifying; but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding.

SEC. 13. That any person, firm, corporation, or association, or any mercantile, agricultural, or manufacturing society, or any body politic or municipal organization complaining of anything done or omitted to be done by any common carrier subject to the provisions of this act in contravention of the provisions thereof, may apply to said Commission by petition, which shall briefly state the facts; whereupon a statement of the charges thus made shall be forwarded by the Commission to such common carrier, who shall be called upon to satisfy the complaint or to answer the same in writing within a reasonable time, to be specified by the Commission. If such common carrier, within the time specified, shall make reparation for the injury alleged to have been done, said carrier shall be relieved of liability to the complaint only for the particular violation of law thus complained of. If such carrier shall not satisfy the complaint within the time specified, or there shall appear to be any reasonable ground for investigating said complaint, it shall be the duty of the Commission to investigate the matters complained of in such manner and by such means as it shall deem proper.

Said Commission shall in like manner investigate any complaint forwarded by the railroad commissioner or railroad commission of any State or Territory, at the request of such commissioner or commission, and may institute any inquiry on its own motion in the same manner and to the same effect as though complaint had been made.

No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

SEC. 14. That whenever an investigation shall be made by said Commission, it shall be its duty to make a report in writing in respect thereto, which shall include the findings of fact upon which the conclusions of the Commission are based, together with its recommendation as to what reparation, if any, should be made by the common carrier to any party or parties who may be found to have been injured; and such findings so made shall thereafter, in all judicial proceedings, be deemed prima facie evidence as to each and every fact found.

All reports of investigations made by the Commission shall be entered of record, and a copy thereof shall be furnished to the party who may have complained, and to any common carrier that may have been complained of.

SEC. 15. That if in any case in which an investigation shall be made by said Commission it shall be made to appear to the satisfaction of the Commission, either by the testimony of witnesses or other evidence, that anything has been done or omitted to be done in violation of the provisions of this act, or of any law cognizable by said Commission, by any common carrier, or that any injury or damage has been sustained by the party or parties complaining, or by other parties aggrieved in consequence of any such violation, it shall be the duty of the Commission to forthwith cause a copy of its report in respect thereto to be delivered to such common carrier, together with a notice to said common carrier to cease and desist from such violation, or to make reparation for the injury so found to have been done, or both, within a reasonable time, to be specified by the Commission; and if, within the time specified, it shall be made to appear to the Commission that such common carrier has ceased from such violation of law, and has made reparation for the injury found to have been done, in compliance with the report and notice of the Commission, or to the satisfaction of the party complaining, a statement to that effect shall be entered of record by the Commission, and the said common carrier shall thereupon be relieved from further liability or penalty for such particular violation of law.

SEC. 16. That whenever any common carrier, as defined in and subject to the provisions of this act, shall violate or refuse or neglect to obey any lawful order or requirement of the Commission in this act named, it shall be the duty of the Commission and lawful for any company or person interested in such order or requirement, to apply, in a summary way, by petition, to the circuit court of the United States sitting in equity in the judicial district in which the common carrier complained of has its principal office, or in which the violation or dis-

obedience of such order or requirement shall happen, alleging such violation or disobedience, as the case may be; and the said court shall have power to hear and determine the matter, on such short notice to the common carrier complained of as the court shall deem reasonable; and such notice may be served on such common carrier, his or its officers, agents, or servants, in such manner as the court shall direct; and said court shall proceed to hear and determine the matter speedily as a court of equity, and without the formal pleadings and proceedings applicable to ordinary suits in equity, but in such manner as to do justice in the premises; and to this end such court shall have power, if it think fit, to direct and prosecute, in such mode and by such persons as it may appoint, all such inquiries as the court may think needful to enable it to form a just judgment in the matter of such petition; and on such hearing the report of said Commission shall be prima facie evidence of the matters therein stated; and if it be made to appear to such court, on such hearing or on report of any such person or persons, that the lawful order or requirement of said Commission drawn in question has been violated or disobeyed, it shall be lawful for such court to issue a writ of injunction or other proper process, mandatory or otherwise, to restrain such common carrier from further continuing such violation or disobedience of such order or requirement of said Commission, and enjoining obedience to the same; and in case of any disobedience of any such writ of injunction or other proper process, mandatory or otherwise, it shall be lawful for such court to issue writs of attachment, or any other process of said court incident or applicable to writs of injunction or other proper process, mandatory or otherwise, against such common carrier, and if a corporation, against one or more of the directors, officers, or agents of the same, or against any owner, lessee, trustee, receiver, or other person failing to obey such writ of injunction or other proper process, mandatory or otherwise; and said court may, if it shall think fit, make an order directing such common carrier or other person so disobeying such writ of injuction or other proper process, mandatory or otherwise, to pay such sum of money not exceeding for each carrier or person in default the sum of five hundred dollars for every day after a day to be named in the order that such carrier or other person shall fail to obey such injunction or other proper process, mandatory or otherwise; and such moneys shall be payable as the court shall direct, either to the party complaining, or into court to abide the ultimate decision of the court, or into the Treasury; and payment thereof may, without prejudice to any other mode of recovering the same, be enforced by attachment or order in the nature of a writ of execution, in like manner as if the same had been recovered by a final decree in personam in such court. When the subject in dispute shall be of the value of two thousand dollars or more, either party to such proceeding before said court may appeal to the Supreme Court of the United States, under the same regulations now provided by law in respect of security for such appeal; but such appeal shall not operate to stay or supercede the order of the court or the execution of any writ or process thereon; and such court may, in every such matter, order the payment of such costs and counsel fees as shall be deemed reasonable. Whenever any such petition shall be filed or presented by the Commission it shall be the duty of the district attorney, under the direction of the Attorney General of the United States, to prosecute the same; and the costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States. For the purposes of this act, excepting its penal provisions, the circuit courts of the United States shall be deemed to be always in session.

SEC. 17. That the Commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice. A majority of the Commission shall constitute a quorum for the transaction of business, but no Commissioner shall participate in any hearing or proceeding in which he has any pecuniary interest. Said Commission may, from time to time, make or amend such general rules or orders as may be requisite for the order and regulation of proceedings before it, including forms of notices and the service thereof, which shall conform, as nearly as may be, to those in use in the courts of the United States. Any party may appear before said Commission and be heard, in person or by attorney. Every vote and official act of the Commission shall be entered of record, and its proceedings shall be public upon the request of either party interested. Said Commission shall have an official seal,

which shall be judicially noticed. Either of the members of the Commission may administer oaths and affirmations.

SEC. 18. That each Commissioner shall receive an annual salary of seven thousand five hundred dollars, payable in the same manner as the salary of judges of the courts of the United States. The Commission shall appoint a secretary, who shall receive an annual salary of three thousand five hundred dollars, payable in like manner. The Commission shall have authority to employ and fix the compensation of such other employees as it may find necessary to the proper performance of its duties, subject to the approval of the Secratary of the Interior.

The Commission shall be furnished by the Secretary of the Interior with suitable offices and all necessary office supplies. Witnesses summoned before the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

All of the expenses of the Commission, including all necessary expenses for transportation incurred by the Commissioners, or by their employees under their orders, in making any investigation in any other places than in the city of Washington, shall be allowed and paid, on the presentation of itemized vouchers therefor approved by the chairman of the Commission and the Secretary of the Interior.

SEC. 19. That the principal office of the Commission shall be in the city of Washington, where its general sessions shall be held; but whenever the convenience of the public or of the parties may be promoted or delay or expense prevented thereby, the Commission may hold special sessions in any part of the United States. It may, by one or more of the Commissioners, prosecute any inquiry necessary to its duties, in any part of the United States, into any matter or question of fact pertaining to the business of any common carrier subject to the provisions of this act.

SEC. 20. That the commission is hereby authorized to require annual reports from all common carriers subject to the provisions of this act, to fix the time and prescribe the manner in which such reports shall be made, and to require from such carriers specific answers to all questions upon which the Commission may need information. Such annual reports shall show in detail the amount of capital stock issued, the amounts paid therefor, and the manner of payment for the same; the dividends paid, the surplus fund, if any, and the number of stockholders; the funded and floating debts and the interest paid thereon; the cost and value of the carrier's property, franchises, and equipment; the number of employees and the salaries paid each class; the amounts expended for improvements each year, how expended, and the character of such improvement; the earnings and receipts from each branch of business and from all sources; the operating and other expenses; the balances of profit and loss; and a complete exhibit of the financial operations of the carrier each year, including an annual balance sheet. Such reports shall also contain such information in relation to rates or regulations concerning fares or freights, or agreements, arrangements, or contracts with other common carriers, as the Commission may require; and the said Commission may, within its discretion, for the purpose of enabling it the better to carry out the purpose of this act, prescribe (if in the opinion of the Commission it is practicable to prescribe such uniformity and methods of keeping accounts) a period of time within which all common carriers subject to the provisions of this act shall have, as near as may be, a uniform system of accounts, and the manner in which such accounts shall be kept.

SEC. 21. That the Commission shall, on or before the first day of December in each year, make a report to the Secretary of the Interior, which shall be by him transmitted to Congress, and copies of which shall be distributed as are the other reports issued from the Interior Department. This report shall contain such information and data collected by the Commission as may be considered of value in the determination of questions connected with the regulation of commerce, together with such recommendations as to additional legislation relating thereto as the Commission may deem necessary.

SEC. 22. That nothing in this act shall apply to the carriage, storage, or handling of property free or at reduced rates for the United States, State, or municipal governments, or for charitable purposes, or to or from fairs and expositions for exhibition thereat, or the issuance of mileage, excursions, or commutation passenger tickets; no hing in this act shall be construed to prohibit

any common carrier from giving reduced rates to ministers of religion; nothing in this act shall be construed to prevent railroads from giving free carriage to their own officers and employees, or to prevent the principal officers of any railroad company or companies from exchanging passes or tickets with other railroad companies for their officers and employees; and nothing in this act contained shall in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this act are in addition to such remedies. *Provided*, That no pending litigation shall in any way be affected by this act.

SEC. 23. That the sum of one hundred thousand dollars is hereby appropriated for the use and purposes of this act for the fiscal year ending June thirtieth, anno Domini eighteen hundred and eighty-eight, and the intervening time anterior thereto.

SEC. 24. That the provisions of sections eleven and eighteen of this act, relating to the appointment and organization of the Commission herein provided for, shall take effect immediately, and the remaining provisions of this act shall take effect sixty days after its passage.

Approved, February 4, 1887.

INTERSTATE COMMERCE COMMISSION.

SECTIONS 13 AND 17 OF AN ACT TO REGULATE COMMERCE.

(Approved February 4, 1887.)

SEC. 13. That any person, firm, corporation, or association, or any mercantile, agricultural, or manufacturing society, or any body politic or municipal organization complaining of anything done or omitted to be done by any common carrier subject to the provisions of this act in contravention of the provisions thereof, may apply to said Commission by petition, which shall briefly state the facts; whereupon a statement of the charges thus made shall be forwarded by the Commission to such common carrier, who shall be called upon to satisfy the complaint or to answer the same in writing within a reasonable time, to be specified by the Commission. If such common carrier, within the time specified, shall make reparation for the injury alleged to have been done, said carrier shall be relieved of liability to the complainant only for the particular violation of law thus complained of. If such carrier shall not satisfy the complaint within the time specified, or there shall appear to be any reasonable ground for investigating said complaint, it shall be the duty of the Commission to investigate the matters complained of in such manner and by such means as it shall deem proper.

Said Commission shall in like manner investigate any complaint forwarded by the railroad commissioner or railroad commission of any State or Territory, at the request of such commissioner or commission, and may institute any inquiry on its own motion in the same manner and to the same effect as though complaint had been made.

No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

SEC. 17. That the Commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice. A majority of the Commission shall constitute a quorum for the transaction of business, but no Commissioner shall participate in any hearing or proceeding in which he has any pecuniary interest. Said Commission may, from time to time, make or amend such general rules or orders as may be requisite for the order and regulation of proceedings before it, including forms of notices and the service thereof, which shall conform, as nearly as may be, to those in use in the courts of the United States. Any party may appear before the said Commission and be heard, in person or by attorney. Every vote and official act of the Commission shall be entered of record, and its proceedings shall be public upon the request of either party interested. Said Commission shall have an official seal, which shall be judicially noticed. Either of the members of the Commission may administer oaths and affirmations.

RULES OF PRACTICE IN CASES AND PROCEEDINGS BEFORE THE COMMISSION.

PUBLIC SESSIONS.

I. When at Washington the Commission will hold its general sessions at 11 o'clock a. m. daily, except Saturdays and Sundays, for the reception and hearing of petitions and complaints, and the transaction of such other business as may be brought before it. The sessions will be held at the office of the Commission in the Sun Building, No. 1315 F street northwest. When special sessions are held at other places such regulations as may be necessary will be made by the Commission.

PETITIONS UNDER SECTION 4.

II. Applications under the fourth section of the act for authority to charge less for longer than for shorter distances for the transportation of passengers or property, must be made by petition addressed to the Commission by the carrier or carriers desiring the relief. The petition must state with particularity the extent of the relief desired and the points at and between which authority is asked to charge less for longer distances; the reasons for the relief sought must also be set forth, and the facts upon which the application is founded. The petition must be verified by some officer or agent of the carrier in whose behalf it is presented, to the effect that the allegations of the petition are true to the knowledge or belief of the affiant. Notice must be published by a petitioner in not less than two newspapers along the line of the road having general circulation, for at least ten days prior to the presentation of a petition, stating briefly the nature of the relief intended to be applied for and the time when the application will be presented, and proof of each publication must be filed with the petition.

III. Upon the presentation of a petition for relief an investigation will be made by the Commission at a time and place to be designated, when testimony will be received for and against the prayer of the petition. After investigation the Commission will make such order as may appear to be just and appropriate upon the facts and circumstances of the case.

COMPLAINTS UNDER SECTION 13.

IV. Complaints under section 13 of the act of anything done or omitted to be done by any common carrier subject to the provisions of the act, in contravention of the provisions thereof, must be made by petition, which must briefly state the facts which are claimed to constitute a violation of the act, and must be verified by the petitioner, or by some officer or agent of the corporation, society, or other body or organization making the complaint, to the effect that the allegations of the petition are true to the knowledge or belief of the affiant.

The complainant must furnish as many written or printed copies of the complaint or petition as there may be parties complained against to be served. When a complaint is made, the name of the carrier complained against must be set forth in full, and the address of the petitioner, and the name and address of his attorney or counsel, if any, must be indorsed upon the complaint.

The Commission will cause a copy of the complaint to be served upon each common carrier complained against, by mail or personally, in its discretion, with notice to the carrier or carriers to satisfy the complaint or to answer the same in writing within the time specified.

ANSWERS.

V. A carrier complained against must answer the complaint made within twenty days from the date of the notice, unless the Commission shall in particular cases prescribe a shorter time for the answer to be served, and in such cases the answer must be made within the time prescribed. The original answer must be filed with the Commission, at its office in Washington, and a copy thereof must at the same time be served upon the complainant by the party answering, personally or by mail. The answer must admit or deny the material allegations of fact contained in the complaint, and may set forth any additional facts claimed to be material to the issue. The answer must be verified in the same manner as the complaint. If a carrier complained against shall make satisfaction before answering, a written acknowledgment of satisfaction must be filed with the Commission, and in that case the fact of satisfaction without other matter may be set forth in the answer filed and served on the complainant. If satisfaction be made after the filing and service of an answer, a supplemental answer setting forth the fact of satisfaction may be filed and served.

VI. If a carrier complained against shall deem the complaint insufficient to show a breach of legal duty, it may, instead of filing an answer, serve on the complainant notice for a hearing of the case on the complaint, and in case of the service of such notice, the facts stated in the complaint will be taken as

admitted. The filing of an answer will not be deemed an admission of the sufficiency of the complaint, but a motion to dismiss for insufficiency may be made at the hearing.

ADJOURNMENTS AND EXTENSIONS OF TIME.

VII. Adjournments and extensions of time may be granted upon the application of parties in the discretion of the Commission.

HEARINGS.

VIII. Upon issue being joined by the service of answer, the Commission, upon request of either party, will assign a time and place for hearing the same, which will be at its office in Washington unless otherwise ordered. Witnesses will be examined orally before the Commission except in cases when special orders are made for the taking of testimony otherwise. The petitioner or complainant must in all cases prove the existence of the facts alleged to constitute a violation of the act, unless the carrier complained of shall admit the same, or shall fail to answer the complaint. Facts alleged in the answer must also be proved by the carrier, unless admitted by the petitioner on the hearing.

In case of failure to answer, the Commission will take such proof of the charge as may be deemed reasonable and proper, and make such order thereon as the circumstances of the case appear to require.

WITNESSES AND DEPOSITIONS.

IX. Subpœnas requiring the attendance of witnesses will be issued by any member of the Commission in all cases and proceedings before it, and witnesses will be required to obey the subpœnas served upon them requiring their attendance or the production of any books, papers, tariffs, contracts, agreements, or documents relating to any matter under investigation or pending before the Commission.

Upon application to the Commission authority may be given, in the discretion of the Commission, to any party to take the deposition of any witnesses who may be shown, for some sufficient reason, to be unable to attend in person.

AMENDMENTS.

X. Upon application by any petitioner or party amendments may be allowed by the Commission, in its discretion, to any petition, answer, or other pleading in any proceeding before the Commission.

COPIES.

XI. Copies of any petition, complaint, or answer, in any matter or proceeding before the Commission, or of any order, decision, or opinion by the Commission, will be furnished upon application by any person or carrier desiring the same, upon payment of the expense thereof.

AFFIDAVITS.

XII. Affidavits to a petition, complaint, or answer may be taken before any officer of the United States, or of any State or Territory, authorized to administer oaths.

CIRCULAR.

RULES AND REGULATIONS PRESCRIBED TO CARRY INTO EFFECT THE ACT OF CONGRESS OF APRIL 22, 1886, AUTHORIZING THE SECRETARY OF THE TREASURY TO DELIVER TO THE RIGHTFUL OWNERS THE CONTENTS OF CERTAIN BOXES DEPOSITED IN THE TREASURY DEPARTMENT BY THE SECRETARY OF WAR.

(1886.—Department No. 58.)

Treasury Department,
Office of the Secretary,
Washington, D. C., May 15, 1886.

Pursuant to the provisions of an act of Congress, entitled "An Act authorizing the Secretary of the Treasury to deliver to the rightful owners the contents of certain boxes deposited in the Treasury Department by the Secretary of War," approved April 22, 1866, the following rules and regulations are prescribed for the guidance of claimants under said act to the property therein named, as follows:

1. The claimant must show to the satisfaction of the Secretary of the Treasury, by the affidavits of two or more credible persons, that he, or the person whom he represents, was at the time such property was captured by the United States Army the absolute owner thereof.

2. The claimant must in like manner fully identify the property claimed as the property so captured and taken from him.

3. If the claimant stands in a representative capacity, he must establish his right to act in such capacity, by such documentary proofs threof as would be accepted as evidence in a court of record.

4. The affidavits mentioned in the preceding subdivisions may be made before any judge of a district or circuit court of the United States, or before any commissioner of either of said courts, and such judge or commissioner shall certify that he knows the affiants, and that they are credible persons. Such affidavits shall particularly describe the articles claimed, and shall state the time, place, and circumstances under which the same were captured, and shall give the value, as near as may be, of such articles. In all cases the proofs must be as full and clear as it is possible to make them.

5. Upon the receipt of such affidavits, the Secretary of the Treasury may, in his discretion, designate one or more newspapers in which the claimant must publish, for at least two consecutive weeks, at his own proper costs and charges, a notice of the making of such claim, which said notice shall describe with reasonable certainty the articles claimed, proof of which said publication, by the affidavit of the editor or publisher of such newspaper, shall be filed by the claimant with the Secretary of the Treasury before any action on the claim will be taken by him.

6. The Secretary of the Treasury, in his discretion, may require of the claimant an indemnifying bond, in not less than the value of the property claimed, conditioned to save harmless the United States from any claim arising from the delivery to the claimant of the property claimed by him.

All of the articles mentioned in said act which may remain in the United States Treasury one year after the passage thereof, will be advertised in not less than six newspapers, to be selected by the Secretary of the Treasury; and all of said articles which may remain in said Treasury for two years after the passage of said act will be duly advertised and sold at public auction under such rules and regulations as may be hereafter prescribed, and the net proceeds thereof will be covered into the Treasury.

C. S. FAIRCHILD,
Acting Secretary of the Treasury.

MISCELLANEOUS.

FOURTH OF JULY CLAIMS.

These claims are so called from the act of July 4, 1864, which provided for paying for all stores and supplies furnished the army in States not in rebellion. The time for making them expired in January 1880, but Congress may, in certain circumstances, allow special cases by private act.

OLD SOUTHERN CLAIMS.

There was just dissatisfaction with the findings of the "Southern Claims Commission" for their manifest prejudice and injustice in refusing the allowance of so many honest claims of this class. The time for filing such claims has expired; but Congress, of course, by general or special legislation, may yet do justice.

THE REFUND OF ILLEGALLY COLLECTED TAXES.

At the first session of the 49th Congress an appropriation was made of over $50,000 to refund such taxes allowed by the Comptroller.

BACK INTEREST ON BONDS.

When U. S. bonds have been transferred, there are many cases where there was accrued interest belonging to the seller, and which did not pass to the purchaser. This can be recovered by proper proceedings.

EXTRADITION.

In any State or Territory it may become necessary to surrender some fugitive from justice on demand of a foreign country, or to send to some foreign country for a fugitive from justice here. This is done through the Department of State at Washington, in pursuance of certain treaties. Among the standing provisions of law are the following:

When there is a treaty for this purpose with any foreign government, any Federal or State judge, or United States commissioner, may, upon a complaint under oath, issue a warrant for the arrest of any person charged with the commission in such foreign country of any of the crimes specified in the treaty. If, upon a hearing, he considers the evidence sufficient to sustain the charge, he is to certify the same, together with a copy of all the testimony taken before him, to the Secretary of State, that a warrant may issue for the surrender of such person, In the mean time he is to commit the accused to the proper jail, to await the requisition. (Rev. Stats. Sec. 5370.)

In every hearing upon the return of the warrant of arrest, any depositions, warrants, or other papers offered in evidence in the foreign country shall be admitted and received, if authenticated so as to entitle them to be received by the tribunals of the foreign country from which the accused escaped, and *copies* of such papers shall be likewise received, if authenticated according to the law of the foreign country. The certificate of the principal diplomatic or consular officer of the United States in such foreign country shall be proof that any paper or copy is authenticated as above required. (Sec. 5371. Act of June 10, 1876.)

Upon satisfactory papers, the Secretary of State issues a warrant for the delivery of the prisoner to the person authorized by the foreign government to receive him in custody, and the prisoner is then subject to be conveyed out of the United States to the foreign country under the same provisions of law as are applicable to the custody of persons accused of offenses against the laws of the United States. (Sec. 5272.)

If the person committed on preliminary hearing, is not delivered upon requisition and conveyed out of the United States within *two calendar months* thereafter, (exclusive of the time required to convey the prisoner out of the United States by the readiest way), any Federal or State judge, upon application, and proof of due notice thereof to the Secretary of State, may, unless sufficient cause is shown to the contrary, order the prisoner released. (Sec. 5273.)

NOTE.—The foregoing indicates substantially what will be required by foreign countries when they are asked to return, (under treaties), fugitives from the United States. The indictment, sworn complaint and warrant or information, and other papers should be carefully made out and fully authenticated at Washington, or the expense of the costly process of extradition (which is wholly paid by the State, Territory, or nation applying for the same), will be thrown away. By the comity of nations, fugitives are often arrested on a request by telegraph from the proper authorities, and held to await the arrival of extradition papers and agents.

When a person is brought back to the United States under extradition treaty, the President is authorized to take all necessary measures for the safe keeping and protection of such person from lawless violence until finally discharged from custody, and for a reasonable time thereafter. (Sec. 5275.) The agent having custody of such surrendered person has the powers of a United States marshal in all the districts through which he necessarily passes with his prisoner. (Sec. 5276.) Any person obstructing him or attempting to rescue the prisoner, may be fined $1,000 and imprisoned for a year. (Sec. 5277).

Extradition, as between States or Territories of the Union, is managed through the irrespective "executive authorities." (Sec. 5278.) That is to say, the governors, except in the case of the District of Columbia, where the chief justice of the Supreme Court of the District, or the senior associate justice present, acts as the "executive." This does not prevent such justice from acting in his judicial capacity on the same case, so that it may happen he will, as executive, order the arrest of the accused and then quash this order upon writ of habeas corpus heard before him.

THE SECRET SERVICE.

The Secret Service Division of the Treasury Department was organized, as it now exists, in 1864. It is under the absolute control of the Secretary, and is supported by an appropriation under the civil service bill of $60.000 per annum. The territory of the United States is divided into districts of one or more States or Territores, over each of which is placed an agent, all of whom are subordinate to the Chief of the Secret Service Division.

Over and above these agents is a force of detectives who are assigned to duty wherever their service may be required. Tney are skilled and experienced men and know how to work in secret and keep a secret. Their principal work is detecting counterfeiters of the U. S. notes, bonds, securities or coins; and frauds on the revenue, particularly in the liquor business. Not unfrequently they gain the confidence of the counterfeiters and "crooked" liquor men for the necessary and useful purposes of discovering their names, their whereabouts and their operations

In former years the field of these detectives was much wider than it now is; for it then embraced all misdemeanors and felonies cognizible under the laws of the United States.

There are a multitude of miscellaneous cases in which these detectives are employed. Sometimes they are put on the track of a suspected party, and sometimes upon the track of a suspected crime, and are expected to ferret out the truth in all cases.

These secret detectives are a terror to evil doers; but they must be men of nerve, presence of mind in danger, approved courage, ready with their weapons when occasion calls, and men of discretion and silence.

Their services are secured in any particular place by the requisition of the U. S District Attorney through the proper channels, or they may be dispatched in the first instance by the Secretary.

PASSPORTS.

HOW THEY ARE TO BE OBTAINED—THEIR EFFECT.

The Revised Statutes of the United States provides:

Sec. 4075. The Secretary of State may grant and issue passports, and cause passports to be granted, issued and verified in foreign countries by such diplomatic or cousular officers of the United States; and no other person shall grant, issue, or verify any such passport. Where a legation of the United States is established in any country, no person other than the diplomatic representative of the United States at such place shall be permitted to grant or issue any passport except in the absence therefrom of such representative.

Sec. 4076. No passport shall be granted or issued to or verified for any other person than citizens of the United States.

Sec. 4062. Every person who violates any safe conduct or passport duly obtained and issued under authority of the United States; or who assults, strikes, wounds, imprisons, or in any other manner offers violence to the person of the public minister, in violation of the law of nations, shall be imprisoned for not more than three years. and fined, at the discretion of the court.

Be it enacted etc. That from and after the first day of July next, a fee of five dollars shall be collected for each citizen's passport issued from the Department. An account of these fees shall be kept, and the amount collected shall be paid into the Treasury of the United States, at least, quarterly. Act of June 20, 1874. 18 Stat. L. 85.

NOTE.—A measure is pending in Congress which will reduce the above fee to *one dollar.*

THE DEPARTMENT OF AGRICULTURE.

THE COMMISSIONER OF AGRICULTURE.

The Commissioner of Agriculture is required to collect and diffuse useful information on subjects connected with agriculture. He is to acquire and preserve in his office all information he can obtain concerning agriculture by means of books and correspondence, and by practical and scientific experiments, the collection of statistics, and other appropriate means; to collect new and valuable seeds and plants; to learn by actual cultivation such of them as may require such tests; to propagate such as may be worthy of propagation, and to distribute them among agriculturists.

THE STATISTICIAN.—He collects reliable information as to the condition, prospects, and results of the cereal, cotton, and other crops, by the instrumentality of four correspondents in each county of every State; this information is gathered at stated periods of each month, carefully studied, estimated, tabulated, and published.

THE ENTOMOLOGIST.—He obtains information with regard to insects injurious to vegetation; investigates the character of insects sent to him, to point out their modes of infliction and the means by which their depredations may be avoided; and arranges specimens of their injuries and nest architecture.

THE BOTANIST.—He receives botanical contributions, and after making desirable selections for the National Herbarium, distributes the duplicate plants among foreign and domestic scientific societies, institutions of learning, and botanists; and answers inquiries of botanico-agricultural character.

THE CHEMIST.—He makes analyses of natural fertilizers, vegetable products, and other materials which pertain to the interests of agriculture. Applications are constantly made from all portions of the country for the analysis of soils, minerals, liquids, and manures.

THE MICROSCOPIST.—He makes original investigations, mostly relating to the habits of parasitic fungoid plants, which are frequently found on living plants and animals, producing sickly growth and in many cases premature death.

THE PROPAGATING GARDEN.—Large numbers of exotic, utilizable, and economic plants are propagated and distributed. The orange family is particularly valuable, and the best commercial varieties are propagated and distributed to the greatest practicable extent.

THE SEED DIVISION.—Seeds are purchased in this and foreign countries of reliable firms, whose guarantee of good quality and genuineness cannot be questioned; they are packed at the Department, and distributed to applicants in all parts of the country.

THE LIBRARY.—Exchanges are made, by which the library receives reports of the leading agricultural, pomological, and meteorological societies of the world.

THE BUREAU OF ANIMAL INDUSTRY.—Makes investigations as to the existence of contagious pleuro-pneumonia and other dangerous, communicable diseases of live stock, superintends the measures for the extirpation, and makes original investigations as to the nature and prevention, of such diseases. Has charge of the quarantine stations for imported neat cattle. Also reports on the condition and means of improving the animal industries of the country.

THE FORESTRY DIVISION.—Experiments, investigates, and reports upon the subject of forestry, and distributes valuable economic tree seeds and plants, and answers inquiries in regard to desirable kinds for forest planting, their modes of propagation, and other forestry matter.

THE ORNITHOLOGICAL DIVISION.—Investigates the economic relations of birds and mammals, and recommends measures for the preservation of beneficial and destruction of injurious species.

THE U. S. FISH COMMISSION.

The object for which this Commission was created was to replenish the supply of fish in the inland waters and streams, and to furnish to private parties the kinds of fish which they could raise with the most profit. The Commission has a number of hatching houses located at convenient points, it has fish cars and fish boats, and in short, every facility which money can afford, (for their appropriations are large), to carry on their business. They have turned loose many millions of young fish into the rivers, and have successfully transplanted many varieties of fish in waters where they were never known before. The central business office of the Commission is at Washington, D. C. They have salmon, white fish, carp, trout, bass, red-eyed perch, and many other kinds of the finny tribe, which are distributed gratuitously to individuals making proper application for them.

FRENCH SPOLIATION CLAIMS.

Prior to July 31, 1801, the French cruisers had committed great depredations upon American vessels. In a subsequent treaty with France, the United States paid her debt to France with these claims, and assumed the obligation of paying them herself. After more than three quarters of a century, provision has at last been made for paying this just but long neglected debt. There were, in 1801, at a rough estimate, over 25,000 persons entitled to near $5,000,000. Their legal representatives are entitled now.

THE GOVERNMENT PRINTING OFFICE.

This is the largest printing office in the world. There are nearly 2,400 people of both sexes employed in it. The employees are not under the Civil Service rules, and all that is required of applicants for places is, that they know their business.

About 800 of this number are compositors, the remaining 1,600 being stereotypers, pressmen, feeders, folders, cutters, stitchers, binders, porters, messengers, laborers, etc., etc In short, everything that is necessary to be done from a simple hand-bill to the most difficult and artistic work is done in this mammoth workshop. Wages of all the employees are high, and a printer who gets a "fat take" on a "table," can make from twenty-five to thirty dollars a day. Of course this is exceptional, but not out of reasonable possibility. A good printer can average the year round, on piece work, $100 a month. When one reflects that the printing for all the Departments of the Government, and for Congress also, is done in this establishment, and that facilities must be on hand for doing this work at a moment's notice, some idea may be formed of the immense volume of material in the office and the variety and amount of skilled labor that can be called into immediate requisition. There is published by the office a volume of about 400 pages, giving a full account of this institution, the general management and details of the work, the number and names of the foremen and assistant foremen and number of men and women in each department, all the different kinds of work done, with the number and kinds of presses, the various machines in the book-making and binding rooms, together with all the apparatus and appliances in use in any of the departments. But nothing short of personal inspection can give one an adequate conception of this vast institution, and the amount and variety of work that is done in it. A position in the Government Printing Office is a good one either for a man or a woman, and in some respects these positions are preferable to places in the Departments.

APPENDIX "A."

UNITED STATES CIVIL SERVICE COMMISSION.

THEIR SECRET RULES FOR MARKING EXAMINATION PAPERS.

We have secured from the archives of the Civil Service Commission a copy of their secret rules for marking examination papers. These rules are of a strictly confidential character and the Commission has exercised great care to prevent their coming into the possession of any one except those whom *they* may *favor* with a copy.

The true friends of genuine reform in the Civil Service are opposed to any such methods. Congress never intended that the Civil Service Commission should use the powers granted to them to fill the departments with their own friends, which the secretion of their rules enables them to do.

In the interest of justice, therefore, and to the end that every one, as well as a favored few, may be benefited by a knowledge of these rules, and universal fair play be secured, we give these Rules to the public. The secret "Rules" are the following, viz:

Mark every correct answer.....	100
Mark every faulty answer according to its value on a scale of 100, and ascertain the value of a faulty answer as follows: Mark each error in an answer (error in spelling, capitalization, computation, punctuation, or by omission, addition, substitution, transposition, etc.), as herein specifically directed, and deduct the sum of the error-marks of each answer from 100.....	The difference between the sum of the error-marks of each answer and 100 will be the the mark of the answer.

225.

FIRST SUBJECT.—Orthography, Penmanship, and Copying.

Dictation Exercise.

In this exercise no word or date may be abbreviated.

	From 100 *deduct*—
For each error in spelling	2
For each word omitted	1
For each word inserted or added	1
For each word substituted*	1
For each transposition	1
For each abbreviation	1
For each error in capitalization (see rules; p. 230)	1
For each failure to use the period at the end of a sentence, and for each grossly improper use of a punctuation mark	1
For irregularity in left-hand margin	1

Copying Exercise.—(first subject.)

For each error in spelling	5
For each word or figure† omitted	5
For each word inserted or added	5
For each word or figure substituted	5
For each transposition	5
For each abbreviation not in the copy‡	5
For each failure to capitalize according to copy	5
For each failure to punctuate according to copy	5
For each failure to paragraph according to copy	5
For irregularity in left-hand margin	5

Penmanship.—(first subject.)

Mark penmanship‖ on letter according to its value, on a scale of 100.	
Mark penmanship on exercise in copying according to its value, on a scale of 100.	
Divide the sum of the marks on the letter and copying by 2	The quotient will be the mark on penmanship.

SECOND SUBJECT.—Arithmetic; and THIRD SUBJECT—Interest, Discount, and Elements of Book-keeping and of Accounts.

Notation and Numeration.—(second subject.)

For each failure to use the sign $ or £	25
For each omission of the decimal point	25
For each mistake in placing the decimal point	25
For each use of the comma where the decimal point should be used	5
For each use of the period where the comma should be used	5
For each figure substituted	10
For each figure inserted	10
For each figure prefixed or suffixed	10
For each figure omitted	10
For incorrect pointing	10

*No charge shall be made for the omission of the word or words in place of which the substituted words have been written.

† The cipher is considered as a figure.

‡ *Copy n.* A pattern for writing; that which is to be imitated. "Let him first learn to write, after a *copy*, all the letters."

‖ In determining the value of penmanship on the letter and in the copying exercise, legibility, formation of letter, and general appearance must be considered.

FUNDAMENTAL RULES.—(SECOND SUBJECT.)

	From 100 *deduct*—
For each error in computation	10
For omission of the decimal point in answer in which its use is required	50
For mistake in the use of the decimal point	25
For use of the comma where the decimal point should be used	5

FRACTIONS AND PROBLEMS.—(SECOND SUBJECT.)

For each error in computation	10
For omission of the decimal point in answer in which its use is required	50
For mistake in use of the decimal point	25
For use of the comma where the decimal point should be used	5
For wrong process producing incorrect result	100
For complex statement, right result being produced	10
For complex process or method, right result being produced	10
If, when "work" or "operation in full" is required, the correct answer is given but no "work" is shown	75
If, when "work" or "operation in full" is required, the correct answer is given, and the process is clearly indicated but not written full	15
If no attempt is made to answer	100
For failure to indicate the answer in problems by the letters: *Ans.*, or otherwise	5
For each failure to use the sign $ or £, or any other monetary or commercial sign, or any sign by which the relations of quantities are expressed, when the use of such is required in the statement or solution of a problem	5

BOOK-KEEPING AND ACCOUNTS.—(THIRD SUBJECT.)

For omission of heading	20
For use of wrong heading	50
For every misplacement of credits or debits	10
For omission of date or item	10
For omission or misplacement of balance	20
For failure to bring balance down, when required	10

FOURTH SUBJECT. — Elements of the English Language, Letter-writing, and the Proper Construction of Sentences.

Proper Construction of Sentences.

Each error in a sentence given for correction shall be valued at the amount that would be produced by dividing 100 by the sum of the errors contained in the sentence. If, in correcting a sentence, errors are made in the answer that were not in the sentence given for correction, these errors shall be added to the errors of the sentence to be corrected, and each error shall be valued at the amount resulting from a division of 100 by this sum.

The sum of the error-values credited for errors corrected in the answer, will be the mark of the answer.

Any exercise in this subject (letter writing excepted) which does not present a definite number of points, so that it may be marked under definite rules, will be marked in the discretion of the examiners upon the following considerations: (1) Whether the answer covers the question; (2) whether it is accurate; (3) whether it is unambiguous; (4) the degree of information and capacity it exhibits.

In the discretion of the examiners.

In marking the letter, form, style, and matter will each be marked on a scale of 100, and the sum of these markings will be divided by 3.....

The quotient resulting from a division of the sum of the markings on form, style and matter by 3, will be the mark of the *letter*.

In marking the letter the errors below-mentioned shall be charged to form, as follows:

	From 100 *deduct*—
FORM. Omission of date line	10
Omission of name of place or date, in date line	5
Omission of address	10
Omission of name of person or place in address	5
For each incompletely written (1) name of place in date or address; (2) date or address; (3) subscription	5
For each error in spelling	3
For each error in the division of words	3
For each error in syntax	3
For irregular left-hand margin	3

The sum of the error-marks shall be deducted from 100, and the remainder will be the mark on *form* in the marking of the letter.

No definite directions can be given for marking the style and matter of the letter, and the judgment of the examiners must therefore determine the value of each. But it will be proper in determining the mark on style to consider:

STYLE: (1) The mode of expressing the thought or facts; (2) rhetorical expression; (3) choice of words and their arrangement (not including grammatical construction.)

MATTER: And in determining the mark on matter, it will be proper to consider: (1) adherence to the subject; (2) intelligence and ability shown.

In marking *style* and *matter*, the judgment of the examiners determines the mark on each.

FIFTH SUBJECT.—Geography, History and Government.

In marking this subject, each answer shall be charged or credited, as nearly as practicable, in proportion to the number of points in the question. The examiners must also consider: (1) whether the answer covers the whole question, and is accurate and unambiguous; (2) the degree of information and capacity it exhibits.

Charges shall be made as follows:

When the question requires in the answer the names of a definite number of states, countries, persons, places, locations, or things, if a greater number of nam s is given in the answer than is required, for each unrequired name given.....10

When the question requires in the answer certain names if a name not required is substituted for a name required.....10

Each question in this subject shall be marked in the discretion of the examiners, according to its value on a scale of 100.

Special and Supplementary Examinations.

No definite directions can be given for marking all the papers of special and supplementary examinations, and the judgment of the examiners must therefore determine the value of the answers in the technical parts of any such examination; but, as far as practicable, the papers of special and supplementary examinations should be marked under these rules.

GENERAL PROVISIONS.

1. Any error not covered by the foregoing rules will be marked in the discretion of the examiners.

2. The examiners, having satisfactory evidence that an answer has been borrowed or otherwise improperly obtained, the question will be marked 0, and the examination papers, with the evidence, referred to the commission.

3. The examination papers of every applicant must be marked by at least two examiners, who shall each initial every paper marked by him with a pencil or ink of different color from that used by the other. Should a review by another

examiner be necessary to adjust differences, he shall also initial every paper reviewed by him with a pencil or ink of another color.

4. All errors noted must be indicated by underlining or otherwise. The charge for each error must be noted on the margin of the sheet.

5. In finding the average of the markings on any subject by dividing the sum of the credits by the number of questions, the unanswered questions must be counted in obtaining the divisor; but the divisor in the first subject will be one for penmanship in excess of the number of questions in that subject.

RULES GOVERNING CAPITALIZATION.

The following words should begin with capital letters:

1. The first word of every distinct sentence.

2. Proper names,* and titles of honor or office; as, George Washington, Thomas Jefferson, Abraham Lincoln, General Grant, President Cleveland, Governor Marcy, Lord Tennyson, Sir Walter Scott, the Ohio, Fourteenth street.

3. Adjectives derived from proper names; as, American, European, African.

4. The appellations of the Deity; as, God, the Almighty, the Supreme Being, the Most High.

5. The first word of every line of poetry.

6. The first word of a direct quotation, when the quotation forms a complete sentence; as, "Christ says, 'My yoke is easy.'"

7, Every name and principal word in the titles of books; as, "Pope's Essay on Man."

8. The pronoun I and the interjection O are written in capitals

NOTE.—Other words of particular importance may begin with capital letters.

The indubitable evidence of the genuineness and authenticity of the foregoing document is in the possession of Charles Pelham, No. 52 Corcoran Building.

[Extract from the Record of Proceedings of the United States Civil Service Commission May 6, 1887.]

Whereas clause 2 of Rule VI, Amended Civil Service Rules, promulgated by the President on the 5th day of May, 1887, provides as follows:

2. And for the purpose of establishing in the Classified Service the principle of competitive examination for promotion, there shall be, so far as practicable and useful, such examinations of a suitable character to test the fitness of persons for promotion in the service, and the Commission may make Regulations, applying them to any Classified Department, Customs Office, or Post-Office, under which regulations examinations for promotion shall be conducted, and all promotions made; but until regulations made by the Commission in accordance herewith have been applied to a Classified Department, Customs Office, or Post Office promotions therein may be made upon any test of fitness determined upon by the Promoting Officer. And in any Classified Department, Customs Office, or Post-Office in which promotions are made under examinations as herein provided, the Commission may, in special cases, if the exigencies of the service require such action, provide non-competitive examinations for promotion;

Therefore resolved, That, under authority conferred by clause 2 of Rule VI of the Amended Civil Service Rules, the Commission hereby adopts the following Regulations for Promotion in the Classified Departmental Service, and also hereby applies the Regulations to the War Department, to be in force therein on and after May 7th, 1887.

REGULATIONS FOR PROMOTION IN THE CLASSIFIED DEPARTMENTAL SERVICE.

Departmental Boards of Promotion—how constituted.

SECTION 1. In each Department a Board of Promotion shall be constituted in the following manner:

CLAUSE 1. Upon the written request of the Commission the Head of the Department shall name— 1. Not less than six persons of a grade not below Class Four, whom he regards as the most competent of those serving under him for

*The name of any object personified may be used as a proper name, and should then begin with a capital letter; as, "Come, gentle Spring."

places on the Board of Promotion, stating generally their qualifications; and from all thus named the Commission shall select three persons as the Board of Promotion of that Department.

2. In like manner, not less than two persons of a grade not below Class Four, serving in each Bureau of his Department, one of whom shall be selected as the auxiliary member of the Board for that Bureau. Each auxiliary member shall act with all the authority of a member of the Board in matters relating to promotions in the Bureau for which he has been appointed; but at no other time shall he act as a member of the Board. Auxiliary members may, however, by action of the Board, be called in consultation with it upon matters relating to the general subject of promotions. In the event of an equal division of the Board, when an auxiliary member is acting, the Commission shall decide.

CLAUSE 2. Upon designation by the Commission, one member of each Board shall act as Chairman, and another as Secretary.

DUTIES OF BOARDS AND OF PROMOTING OFFICERS.

SECTION 2. Departmental Boards of Promotion shall perform the following duties:

CLAUSE 1. Immediately after the organization of a Board of Promotion in any Department, the head of that Department shall furnish to the Commission, upon its request, a schedule of the several classes of officers, clerks, and employees who have been classified in said Department under the Civil Service Act of January 16, 1883 (indicating those excepted from examination under the Civil Service Rules), in each Bureau of the Department, with a list of the names of the persons in each of said classes.

CLAUSE 2. Upon receipt of the schedule of classes of any Department, the Commission shall require the Promotion Board of said Department to determine and report to it the examination necessary for promotion to each class above the lowest, excepting the Special Class hereinafter provided for.

CLAUSE 3. The lowest class from which promotions may be made by examination and certification, as herein provided for, is the class giving an annual salary of $1,000: *Provided*, That any person in a class giving an annual salary of $900 or less appointed thereto upon certification from the General Register, may, after probation and absolute appointment, compete for promotion to Class One.

Any person, appointed upon certification from the General Register, to a place giving an annual salary of $900 or less may be promoted; in the discretion of the Head of the Department, during probation or after absolute appointment, to the $1,000 Class; and any person in a class giving an annual salary of $900 or less appointed thereto upon certification from the Limited Register, may, after probation and absolute appointment, upon certification by the Commission that such person has passed the General Examination, be promoted in the discretion of the Head of the Department to the $1,000 Class; and any person in a Class giving an annual salary of less than $900, appointed thereto upon certification from the Limited Register, may be promoted, in the discretion of the Head of the Department, during probation or after absolute appointment, to the $900 Class.

Any person who, by reason of any classification, is in the Classified Departmental Service, in a class below the $1,000 Class, but who was not appointed upon examination and certification by the Commission, shall be entitled to the same right of promotion to the $1,000 Class and of competition for promotion to Class One, as those appointed from the General Register of the Commission to a class below the $1,000 Class.

CLAUSE 4. Examinations for promotion shall be conducted under the direction of, and upon written questions approved by, the Commission; and the Boards of Promotion shall, under the supervision of the Commission, mark the examination papers of all competitors, excepting those of competitors for the Special Class hereinafter provided for. But it is especially provided that one of the subjects of each examination shall be "Efficiency," which shall be marked by the Head of the Bureau, as follows:

A list of the names of the competitors in each Class below the Class to which promotions are to be made, shall, after each examination, be furnished to the

Head of the Bureau, who shall mark the "Efficiency" of each competitor on a scale of 100, and in so doing shall consider the attendance, application, habits, ability, and adaptability of each to the duties of the Class in which he is serving; and hereafter such record shall be kept of the habits and work of the employees in the various Departments as will show their Efficiency.

Clause 5. Whenever the Head of any Department shall so request, the examinations for promotion in his Department shall be made without regard to Bureaus, and he shall mark the Efficiency of the competitors. In such examinations no auxiliary member of the Board of Promotion shall act. And whenever the Head of any Department shall so request, the examinations for promotion in any Bureau thereof shall be made by divisions, the Head of the Bureau to mark the Efficiency of the competitors, and the auxiliary member of the Board of Promotion for that Bureau to act.

Clause 6. To every subject in an examination a relative weight, according to its importance in the examination, shall be given. The result of each examination shall be ascertained as follows: Each question will be marked on a scale of 100; the average of the marks in each subject will be multiplied by the number indicating the relative weight of the subject, and the sum of the products will be divided by the sum of the relative weight; the quotient will be the competitor's standing in the examination.

All competitors who attain an average of 75 per cent. shall be eligible to promotion; and their names, with the average obtained by each, shall be entered upon a Register of Eligibles.

Clause 7. Positions requiring technical, professional, or scientific knowledge, or knowledge of a language other than the English language, or peculiar or special skill, on the part of the persons occupying them, for which examinations have been or may be provided by the Commission, shall be known, for purposes of promotion, as positions of the Special Class; and promotions to any position in the Special Class shall be made in the following manner:

Whenever the Commission shall order an examination to be held for the purpose of determining the fitness of applicants in any Bureau for promotion to any position in the special class of said Bureau, the Promotion Board, acting with the Auxiliary Member of that Bureau, shall give proper notice that all persons in said Bureau wishing to compete for promotion may be examined, upon making written application for such examination, at a time and place to be named in said notice. The questions for such examination shall be prepared by the Special Board of Examiners, which is charged by the Commission with the duty of ascertaining the qualifications of applicants for admission by original appointment to the position in the Special Class for which the examination for promotion is to be held. All such questions must be submitted to the Commission for approval.

The examination papers of every examination for promotion to the Special Class shall be marked by the appropriate Special Board of Examiners; and the Board, accepting the rating in Efficiency, made in the manner prescribed in Clause 4 of this Section, shall grade each applicant, as provided in Clause 6, and furnish to the Commission a list of the names of all the applicants, indicating the grading of each; and the names of all applicants graded at 75 per cent. or over shall be placed upon a Register of Eligibles.

Clause 8. The Registers of persons eligible to promotion shall be kept by the Commission; and upon the written request of the Promoting Officer the Commission shall certify to said officer a list of the names of all the persons eligible to promotion to the vacancy to be filled; and from among the persons whose names are thus certified the promotion shall be made.

Clause 9. Persons who fail to obtain the minimum grade of eligibility to promotion shall be re-examined after the expiration of six months; and if they then again fail to pass may be reduced to a lower Class, or be dismissed from the service. This provision, however, shall not apply to persons who are examined for promotion to the Special Class.

CLAUSE 10. Each Board of Promotion shall meet on the first Saturday of July, annually, and make to the Commission a report of its transactions during the preceding fiscal year, and of the results of its work. The Board shall also meet at such other times as it may determine upon.

WHO SHALL COMPETE.

SECTION 3. Promotions shall be made from the $1,000 Class, and from Classes under the $1,000 Class as hereinbefore provided, to the First Class; from the First to the Second Class; from the Second to the Third Class; and from the Third to the Fourth Class. All persons in the Class immediately below the Class to which promotions are to be made must be examined for promotion; and, upon recommendation of the Board of Promotion, the Commission may open competition to persons in one or more of the Classes immediately below the Class required to be examined or which has been examined. Persons in the Classes below the $1,000 Class, appointed from the General Register, upon making to the Board of Promotion written application therefor, shall be examined for promotion to Class One. Upon written application for any Supplementary or Special Examination, any person in a Class not below the $1,000 Class may be examined for promotion to the Special Class at such times as the Commission may direct.

THE COMMISSION AND PROMOTION EXAMINATION.

SECTION 4. All examinations for promotion shall be supervised and controlled by the Commission.

FOR DISMISSAL.

SECTION 5. Any member of a Board of Promotion who discloses, or any employee who procures or attempts to procure, any of the questions of an examination for promotion, shall be reported by the Commission to the Head of the Department for dismissal from the service.

HOW PROMOTED PERSONS SHALL BE ASSIGNED.

SECTION 6. All persons promoted shall be assigned to the duties of the grade to which they have been promoted, unless the interests of the service require their assignment to other duties, which fact shall be reported by the Head of the Bureau or Office to the Head of the Department.